

Whenever possible, the drafters have tried to use denominators that reflect the *volume* of activity. Therefore, it is preferable to divide by the average daily population rather than simply counting the number of events per month. The total numbers of hours worked by inmate workers during the past twelve months is used, whenever appropriate. In a few instances, other denominators have been used. What do the numbers mean after the math is done? They provide a *starting point* for analyzing and assessing the organization.

The first time you generate outcome measures, they may not mean much to you but their value grows every time you measure. The second time you measure outcomes, you will be able to compare current outcomes to those that you measured in the past. In this way, outcome measures become a valuable management tool. Over time, the series of outcome measures that you calculate can provide invaluable insight into many aspects of your operation. Sometimes, they will provide you with important “red flags” that identify troubling trends.

#### WHAT DOES THIS MEAN FOR ACCREDITATION?

Agencies applying for accreditation under the performance-based format now will be required not only to submit the data from the outcome measures at the time of their audit, they also will be required to submit the data *yearly* in conjunction with their annual certification report. The original outcome measures will be used to establish baseline data and each year's ensuing report will be added to the database. As each agency is considered for reaccreditation, the Commission on Accreditation for Corrections will review the historical data over the three-year period as well as the data generated by the most recent audit. When the Commission renders an accreditation decision, the outcome measures as well as levels of compliance with the expected practices will be considered as part of the *totality of conditions* of the system.

# Adult Correctional Institutions Conversion Chart

## Third Edition to Fourth Edition and Performance-Based Health Care for ACI

3-4001	4-4001
3-4002	4-4002
3-4003	4-4003
3-4004	4-4004
3-4005	4-4005
3-4006	4-4006
3-4007	4-4007
3-4008	4-4008
3-4009	4-4009
3-4010	Deleted
3-4011	4-4010
3-4012	4-4011
3-4013	4-4012
3-4014	4-4013
3-4015	4-4014
3-4016	4-4015
3-4017	4-4016
3-4018	4-4017
3-4019	4-4018
3-4020	4-4019
3-4021	4-4020
3-4021-1	4-4021
3-4022	4-4022
3-4023	4-4023
3-4024	4-4024
3-4025	4-4025
3-4026	4-4026
3-4027	4-4027
3-4028	4-4028
3-4029	4-4029
3-4030	4-4030
3-4031	4-4031
3-4032	4-4032
3-4033	4-4033
3-4034	4-4034
3-4035	4-4035
3-4036	4-4036
3-4037	4-4037
3-4038	4-4038
3-4039	4-4039
3-4040	4-4040
3-4041	4-4041
3-4042	4-4042

3-4043	4-4043
3-4044	4-4044
3-4045	4-4045
3-4046	4-4046
3-4047	4-4047
3-4048	4-4048
3-4049	4-4049
3-4050	4-4050
3-4051	4-4051
3-4052	4-4052
3-4053	4-4053
3-4053-1	4-4054
3-4054	4-4055
3-4054-1	4-4056
3-4055	4-4057
3-4056	4-4058
3-4057	4-4059
3-4058	4-4060
3-4059	4-4061
3-4060	4-4062
3-4061	4-4063
3-4062	4-4064
3-4063	4-4065
3-4064	4-4066
3-4065	4-4067
3-4066	4-4068
3-4067	4-4069
3-4068	4-4070
3-4069	4-4071
3-4070	4-4073
3-4071	4-4074
3-4072	4-4075
3-4073	4-4076
3-4074	4-4077
3-4075	4-4078
3-4076	4-4079
3-4077	4-4080
3-4078	4-4081
3-4079	4-4082
3-4080	4-4083
3-4081	4-4084
3-4082	4-4085, 4-4385
3-4083	4-4086

3-4084	4-4087
3-4085	4-4088
3-4086	4-4089
3-4087	4-4090
3-4088	4-4091
3-4089	4-4092
3-4090	4-4093
3-4091	4-4094
3-4092	4-4095
3-4093	4-4096
3-4094	4-4097
3-4095	4-4098
3-4096	4-4099
3-4097	4-4100
3-4098	4-4101
3-4099	4-4102
3-4100	4-4103
3-4101	4-4104
3-4102	4-4105
3-4103	4-4106
3-4104	4-4107
3-4105	4-4108
3-4106	4-4109
3-4107	4-4110
3-4108	4-4111
3-4109	4-4112
3-4110	4-4113
3-4111	4-4114
3-4112	4-4115
3-4113	4-4116
3-4114	4-4117
3-4115	4-4118
3-4116	4-4119
3-4117	4-4120
3-4118	4-4121
3-4119	4-4122
3-4120	4-4123
3-4121	4-4124
3-4122	4-4125
3-4123	4-4126
3-4124	4-4127
3-4125	4-4128
3-4126	4-4129

**Adult Correctional Institutions Conversion Chart (continued)**

3-4127	4-4130
3-4128	4-4131
3-4128-1	4-4132
3-4128-2	4-4133
3-4129	4-4134
3-4130	4-4135
3-4131	4-4136
3-4132	4-4137
3-4133	4-4138
3-4134	4-4139
3-4135	4-4140
3-4136	4-4141
3-4137	4-4142
New	4-4143
New	4-4144
3-4138	4-4145
3-4139	4-4146
3-4140	4-4147
3-4141	4-4148
3-4142	4-4149
3-4143	4-4150
3-4144	4-4151
3-4145	4-4152
3-4146	4-4153
3-4147	4-4154
3-4148	4-4155
3-4149	4-4156
3-4150	4-4157
3-4151	4-4158
3-4152	4-4159
3-4153	4-4160
3-4154	4-4161
3-4155	4-4162
3-4156	4-4163
3-4157	4-4164
3-4158	4-4165
3-4159	4-4166
3-4160	4-4167
3-4161	4-4168
3-4162	4-4169
3-4163	4-4170
3-4164	4-4171
3-4165	4-4172
3-4166	4-4173
3-4167	4-4174
3-4168	4-4175
3-4169	4-4176

3-4170	4-4177
3-4171	4-4178
3-4172	4-4179
3-4173	4-4180
3-4174	4-4181
3-4175	4-4182
3-4176	4-4183
3-4177	4-4184
3-4178	4-4185
3-4179	4-4186
3-4180	4-4187
3-4181	4-4188
3-4182	4-4189
3-4183	4-4190
3-4183-1	4-4191
3-4184	4-4192
3-4185	4-4193
3-4186	4-4194
3-4187	4-4195
3-4188	4-4196, 4-4421
3-4189	4-4197
3-4190	4-4198
3-4191	4-4199
3-4192	4-4200
3-4193	4-4201
3-4194	4-4202
3-4195	4-4203
3-4196	4-4204
3-4197	4-4205
3-4198	4-4206
3-4198-1	4-4207
3-4198-2	4-4208
3-4198-3	4-4209
3-4198-4	4-4210
3-4199	4-4211
3-4200	4-4212
3-4201	4-4213
3-4202	4-4214
3-4203	4-4215
3-4204	4-4216
3-4205	4-4217
3-4206	4-4218
3-4207	4-4219
3-4208	4-4220, 4-4388
3-4209	4-4221
3-4210	4-4222
3-4211	4-4223

3-4212	4-4224
3-4213	4-4225
3-4214	4-4226
3-4215	4-4227
3-4216	4-4228
3-4217	4-4229
3-4218	4-4230
3-4219	4-4231
3-4220	4-4232
3-4221	4-4233
3-4222	4-4234
3-4223	4-4235
3-4224	4-4236
3-4225	4-4237
3-4226	4-4238
3-4227	4-4239
3-4228	4-4240
3-4229	4-4241
3-4230	4-4242
3-4231	4-4243
3-4232	4-4244
3-4233	4-4245
3-4234	4-4246
3-4235	4-4247
3-4236	4-4248
3-4237	4-4249
3-42438	4-4250
3-4239	4-4251
3-4240	4-4252
3-4241	4-4253
3-4242	4-4254
3-4243	4-4255
3-4244	4-4256
3-4245	4-4257
3-4246	4-4258, 4-4400
3-4247	4-4259
3-4248	4-4260
3-4249	4-4261
3-4250	4-4262
3-4251	4-4263
3-4252	4-4264
3-4253	4-4265
3-4254	4-4266
3-4255	4-4267
3-4256	4-4268
3-4257	4-4269
3-4258	4-4270



**Adult Correctional Institutions Conversion Chart (continued)**

3-4259	4-4271	3-4299	4-4318	3-4344	4-4363
3-4260	4-4272	3-4300	4-4319	3-4344-1	4-4363-1
3-4261	4-4273	3-4301	4-4320	3-4345	4-4365
3-4262	4-4274	3-4302	4-4321	3-4346	4-4366
3-4263	4-4275	3-4303	4-4322	3-4347	4-4360
3-4264	4-4276	3-4304	4-4323	3-4348	4-4367
3-4265	4-4277	3-4305	4-4324	3-4349	4-4372
3-4266	4-4278	3-4306	4-4325, 4-4380	3-4350	4-4351
3-4267	4-4279	3-4307	4-4326	3-4351	4-4389
3-4267-1	4-4280	3-4308	4-4327	3-4352	4-4390
3-4268	4-4281	3-4309	4-4328	3-4353	4-4346
3-4269	4-4282	3-4310	4-4329	3-4354	4-4352
3-4270	4-4283	3-4311	4-4330	3-4355	4-4350
3-4271	4-4284	3-4312	4-4331	3-4356	4-4348
3-4272	4-4285	3-4313	4-4332	3-4357	4-4359
3-4273	4-4286	3-4314	4-4333	3-4358	4-4375
3-4274	4-4287	3-4315	4-4334	3-4359	4-4398
3-4275	4-4288	3-4316	4-4335	3-4360	4-4348
3-4276	4-4289	3-4317	4-4336	3-4361	4-4414
3-4277	4-4290	3-4318	4-4337	3-4362	4-4405
3-4278	4-4291	3-4319	4-4338	3-4363	4-4361
3-4279	4-4292	3-4320	4-4339	3-4364	4-4373
3-4280	4-4293	3-4321	4-4340	3-4365	4-4355
3-4281	4-4294	3-4322	4-4341	3-4366	4-4354
3-4282	4-4295	3-4324	4-4342	3-4367	4-4374
3-4283	4-4296	3-4325	4-4343	3-4368	4-4404
3-4284	4-4297	3-4326	4-4380	3-4369	4-4399
3-4285	4-4298	3-4327	4-4381	3-4370	4-4376
3-4286	4-4299	3-4328	4-4408	3-4371	4-4377
3-4287	4-4300	3-4328	4-4409	3-4372	4-4397
3-4288	4-4301	3-4329	4-4424	3-4373	4-4402
3-4289	4-4302	3-4330	4-4347	3-4374	4-4395
3-4290	4-4303	3-4331	4-4344	3-4375	4-4425
3-4291	4-4304	3-4332	Deleted	3-4376	4-4413
3-4292	4-4305	3-4333	4-4427	3-4377	4-4396
3-4293	4-4306	3-4334	4-4384	3-4378	4-4414
3-4293-1	4-4307	3-4335	4-4382	3-4379	4-4415
3-4293-2	4-4308	3-4336	4-4368	New	4-4345
3-4293-3	4-4309	3-4337	4-4369	New	4-4349
3-4293-4	4-4310	3-4338	4-4383	New	4-4356
3-4293-5	4-4311	3-4339	4-4392	New	4-4357
3-4293-6	4-4312	3-4340	4-4393	New	4-4358
3-4294	4-4313	3-4341	4-4378	New	4-4359
3-4295	4-4314	3-4342	4-4378	New	4-4364
3-4296	4-4315	3-4342-1	4-4401	New	4-4370
3-4297	4-4316	3-4343	4-4362	New	4-4371
3-4298	4-4317	3-4343-1	4-4353	New	4-4379

**Adult Correctional Institutions Conversion Chart (continued)**

New	4-4382
New	4-4386
New	4-4387
New	4-4391
New	4-4394
New	4-4403
New	4-4406
New	4-4407
New	4-4410
New	4-4411
New	4-4412
New	4-4416
New	4-4417
New	4-4418
New	4-4419
New	4-4420
New	4-4422
New	4-4423
New	4-4426
3-4380	4-4428
3-4380-1	4-4429
3-4381	4-4430
3-4382	4-4431
3-4383	4-4432
3-4384	4-4433
3-4385	4-4434
3-4386	4-4435
3-4387	4-4436
3-4388	4-4437
3-4388-1	4-4438
3-4388-2	4-4439
3-4388-3	4-4440
3-4388-4	4-4441
3-4389	4-4442
3-4390	4-4443
3-4391	4-4444
3-4392	4-4445
3-4393	4-4446
3-4393-1	4-4447
3-4394	4-4448
3-4395	4-4449
3-4396	4-4450
3-4397	4-4451
3-4398	4-4452
3-4399	4-4453
3-4400	4-4454
3-4401	4-4455

3-4402	4-4456
3-4403	4-4457
3-4404	4-4458
3-4405	4-4459
3-4406	4-4460
3-4407	4-4461
3-4408	4-4462
3-4409	4-4463
3-4410	4-4464
3-4410-1	4-4465
3-4411	4-4466
3-4412	4-4467
3-4412-1	4-4468
3-4413	4-4469
3-4414	4-4470
3-4415	4-4471
3-4416	4-4472
3-4417	4-4473
3-4418	4-4474
3-4418-1	4-4475
3-4419	4-4476
3-4420	4-4477
3-4421	4-4478
3-4422	4-4479
3-4422-1	4-4480
3-4423	4-4481
3-4424	4-4482
3-4425	4-4483
3-4426	4-4484
3-4427	4-4485
3-4428	4-4486
3-4429	4-4487
3-4430	4-4488
3-4431	4-4489
3-4432	4-4490
3-4433	4-4491
3-4434	4-4492
3-4435	4-4493
3-4436	4-4494
3-4437	4-4495
3-4438	4-4496
3-4439	4-4497
3-4440	4-4498
3-4441-1	4-4499
3-4441	4-4499-1
3-4442	4-4500
3-4443	4-4501

3-4444	4-4502
3-4445	4-4503
3-4446	4-4504
3-4447	4-4505
3-4448	4-4506
3-4449	4-4507
3-4450	4-4508
3-4451	4-4509
3-4452	4-4510
3-4453	4-4511
3-4454	4-4512
3-4455	4-4513
3-4456	4-4514
3-4457	4-4515
3-4458	4-4516
3-4459	4-4517
3-4460	4-4518
3-4461	4-4519
3-4462	4-4520
3-4463	4-4521

## Adult Correctional Institutions Conversion Chart

### Performance-Based Health Care for ACI

PBHC	3rd Edition	4th Edition
1-HC-1A-01	3-4331	4-4344
1-HC-1A-02	New	4-4345
1-HC-1A-03	3-4353	4-4346
1-HC-1A-04	3-4330	4-4347
1-HC-1A-05	3-4356, 3-4360	4-4348
1-HC-1A-06	New	4-4349
1-HC-1A-07	3-4355	4-4350
1-HC-1A-08	3-4350	4-4351
1-HC-1A-09	3-4354	4-4352
1-HC-1A-10	3-4343-1	4-4353
1-HC-1A-11	3-4366	4-4354
1-HC-1A-12	3-4365	4-4355
1-HC-1A-13	New	4-4356
1-HC-1A-14	New	4-4357
1-HC-1A-15	New	4-4358
1-HC-1A-16	3-4357	4-4359
1-HC-1A-17	3-4347	4-4360
1-HC-1A-18	3-4363	4-4361
1-HC-1A-19	3-4343	4-4362
1-HC-1A-20	3-4344	4-4363
1-HC-1A-21	New	4-4364
1-HC-1A-22	3-4345	4-4365
1-HC-1A-23	3-4346	4-4366
1-HC-1A-24	3-4348	4-4367
1-HC-1A-25	3-4336	4-4368
1-HC-1A-26	3-4337	4-4369
1-HC-1A-27	New	4-4370
1-HC-1A-28	New	4-4371
1-HC-1A-29	3-4349	4-4372
1-HC-1A-30	3-4364	4-4373
1-HC-1A-31	3-4367	4-4374
1-HC-1A-32	3-4358	4-4375
1-HC-1A-33	3-4370	4-4376
1-HC-1A-34	3-4371	4-4377
1-HC-1A-35	3-4341, 3-4342	4-4378
1-HC-1A-36	New	4-4379
1-HC-2A-01	3-4326	4-4380
1-HC-2A-02	3-4327	4-4381
1-HC-2A-03	3-4335	4-4382
1-HC-2A-04	3-4338	4-4383
1-HC-2A-05	3-4334	4-4384
1-HC-2A-08	3-4082	4-4385
1-HC-2A-09	New	4-4386
1-HC-2A-10	New	4-4387
1-HC-2A-13	3-4208	4-4388



**Adult Correctional Institutions Conversion Chart (continued)**

1-HC-2A-14	3-4351	4-4389
1-HC-2A-15	3-4352	4-4390
1-HC-2A-16	New	4-4391
1-HC-2A-17	3-4339	4-4392
1-HC-2A-18	3-4340	4-4393
1-HC-3A-01	New	4-4394
1-HC-3A-02	3-4374	4-4395
1-HC-3A-03	3-4377	4-4396
1-HC-3A-04	3-4372	4-4397
1-HC-3A-05	3-4359	4-4398
1-HC-3A-06	3-4369	4-4399
1-HC-3A-07	3-4246	4-4400
1-HC-3A-08	3-4342-1	4-4401
1-HC-3A-09	3-4373	4-4402
1-HC-3A-10	New	4-4403
1-HC-3A-11	3-4368	4-4404
1-HC-3A-12	3-4362	4-4405
1-HC-3A-13	New	4-4406
1-HC-3A-14	New	4-4407
1-HC-4A-01	3-4328	4-4408
1-HC-4A-02	3-4328	4-4409
1-HC-4A-03	New	4-4410
1-HC-4A-04	New	4-4411
1-HC-4A-05	New	4-4412
1-HC-4A-06	3-4376	4-4413
1-HC-4A-07	3-4361, 3-4378	4-4414
1-HC-4A-08	3-4379	4-4415
1-HC-5A-04	New	4-4416
1-HC-5A-07	New	4-4417
1-HC-5A-06	New	4-4418
1-HC-5A-10	New	4-4419
1-HC-6A-01	New	4-4420
1-HC-6A-02	3-4188	4-4421
1-HC-7A-01	New	4-4422
1-HC-7A-02	New	4-4423
1-HC-7A-03	3-4329	4-4424
1-HC-7A-05	3-4375	4-4425
1-HC-7A-08	New	4-4426
1-HC-7A-09	3-4333	4-4427

# Summary of Mandatory Expected Practices

## Totals of Weights

Category	Number
Mandatory Standards/Expected Practices	63
Nonmandatory Expected Practices	458

## Summary of Mandatory Standards/Expected Practices

• 4-4091	• 4-4214	• 4-4329	• 4-4363	• 4-4389
• 4-4092	• 4-4215	• 4-4330	• 4-4365	• 4-4396
• 4-4124	• 4-4220	• 4-4331	• 4-4368	• 4-4397
• 4-4191	• 4-4221	• 4-4332	• 4-4370	• 4-4400
• 4-4195	• 4-4222	• 4-4344	• 4-4371	• 4-4401
• 4-4196	• 4-4224	• 4-4351	• 4-4373	• 4-4402
• 4-4203	• 4-4281	• 4-4353	• 4-4376	• 4-4405
• 4-4204	• 4-4306	• 4-4354	• 4-4378	• 4-4410
• 4-4205	• 4-4316	• 4-4356	• 4-4380	• 4-4411
• 4-4206	• 4-4318	• 4-4357	• 4-4381	• 4-4421
• 4-4211	• 4-4321	• 4-4358	• 4-4382	• 4-4455
• 4-4212	• 4-4322	• 4-4359	• 4-4384	
• 4-4213	• 4-4324	• 4-4362	• 4-4388	



**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,**  
*Plaintiffs,*

**v.**

**BRAD LIVINGSTON, *et al.*,**  
*Defendants.*

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**CIVIL NO. 4:14-CV-3253**

**Exhibit 57**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

STEPHEN McCOLLUM and	)	
SANDRA McCOLLUM,	)	
individually and as	)	
independent administrator	)	
of the Estate of LARRY	)	Civil Action
GENE McCOLLUM,	)	
	)	Number 4:14-CV-3253
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
	)	
BRAD LIVINGSTON, JEFF	)	
PRINGLE, RICHARD CLARK,	)	
KAREN TATE, SANDREA	)	
SANDERS, ROBERT EASON,	)	
THE UNIVERSITY OF TEXAS	)	
MEDICAL BRANCH and THE	)	
TEXAS DEPARTMENT OF	)	
CRIMINAL JUSTICE,	)	
	)	
Defendants.	)	

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ORAL AND VIDEOTAPED DEPOSITION OF

BRYAN COLLIER

MARCH 30, 2016

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1 **CMHCC, I would look to AD 10.64 at the relevant**  
2 **time, and I would look to whatever training was done**  
3 **with the staff and then whatever posters were put up**  
4 **for the inmates?**

5 A. I think -- if you're looking for -- and I  
6 think what you're describing would be specific  
7 written materials related to it. And I believe that  
8 answer would be yes.

9 **Q. Okay. Why don't you insist that the**  
10 **inmates at the units receive actual personalized**  
11 **training every summer?**

12 A. We provide for offenders -- we do provide  
13 written notice for offenders, not only in the ECHO,  
14 which is the prison newspaper, but also posted  
15 within housing areas and other areas of the unit,  
16 things that they need to be reminded about about  
17 heat protocol.

18 In addition to that, we are -- we  
19 have a heat video that is provided to offenders as  
20 they are arriving at units, that they watch as part  
21 of their orientation to the intake process.

22 We also are in the process now of  
23 developing a peer-education component that will be  
24 delivered this summer specifically for offenders by  
25 peer educators within the system.



1 A. Level of effort.

2 Q. What does -- that's not what easy means.

3 Easy means that you can do it. Okay? Or you can do  
4 it with little to no effort on your part. You with  
5 me?

6 A. Yes, sir.

7 Q. Okay. Would it have been easy to have  
8 instituted the wellness check program prior to 2012?

9 A. It could have been done earlier prior to  
10 2012.

11 Q. Why wasn't it?

12 A. I don't think we identified the gap until  
13 2011.

14 Q. What gap are you talking about?

15 A. The gap specifically that an officer on a  
16 wing in a housing area would know they have  
17 offenders who may be vulnerable, but at the same  
18 time they did not necessarily know which specific  
19 offenders that they may need to be doing additional  
20 checks on.

21 Q. What happened that enabled you to see this  
22 gap in 2012?

23 A. In August of 2011, we began to see  
24 suspected heat-related deaths. At the same time we  
25 saw an unprecedented number of consecutive hot days

1 in the midst of a very hot summer and drought.

2 Based upon all that essentially  
3 coming at one time, in August, Mr. Livingston asked  
4 if we would collectively get together, me, several  
5 key division directors, and try to identify, are we  
6 doing everything we possibly can to address this  
7 issue.

8 **Q. Who were the division directors?**

9 A. Would have been Mr. Thaler; would have  
10 been Dr. Linthicum; I believe Frank Inmon, the  
11 facilities division director.

12 **Q. That meeting, to the best of your recall,**  
13 **happened in early August 2011?**

14 A. In August of 2011.

15 **Q. Do you know when in August 2011?**

16 A. I've seen the e-mail and I believe -- I  
17 can't remember the exact date.

18 **Q. Okay. Did Mr. Livingston -- well, do you**  
19 **know if Mr. Livingston, prior to that meeting,**  
20 **believed that TDCJ was doing all it could to deal**  
21 **with the extreme heat that was going on that summer?**

22 A. I believe we all felt that our mitigation  
23 efforts were providing the level of cover that we  
24 needed based upon past history.

25 **Q. The level of cover you needed based on**

1           **Q.    Okay.    Have you ever -- has the agency**  
2 **ever collectively reviewed all of the heat-related**  
3 **illnesses and deaths in any manner and put together**  
4 **a report?**

5           A.    I'm not aware of a specific report.    I am  
6 aware of -- that several components of the agency  
7 may review specific information related to  
8 heat-related incidents.    I'm also aware that in 2011  
9 we looked at incidents that were occurring in 2011  
10 so that we could try to take some immediate steps if  
11 we needed to.

12                       We also do a heat protocol meeting.  
13 We do several steps that may be based on a review or  
14 include portions of a review.

15           **Q.    Okay.    So what I heard you say was, you**  
16 **know, after a meeting in -- sometime in August 2011,**  
17 **you took some immediate steps?**

18           A.    In --

19           **Q.    And that could constitute a review of**  
20 **sorts.    Is that what you're saying?**

21           A.    I would say what we did in 2011 was  
22 absolutely a review of what was occurring at that  
23 time.    What I'm --

24           **Q.    Did you produce a report about that**  
25 **review?**



1 **housing area?**

2 A. I believe it can, yes, sir.

3 **Q. Okay. It can or it can't, right,**  
4 **depending on the outside temperature?**

5 A. I don't know if it can or can't. I know  
6 that --

7 **Q. Tell me how it can.**

8 A. By taking warmer air, if there's warmer  
9 air within the dorm, exhausting that air out and  
10 bringing in fresh air.

11 **Q. And if the fresh air is as hot or hotter**  
12 **than the air that's being exhausted, do you believe**  
13 **that that somehow reduces the temperature?**

14 A. I'm not a temperature expert, but yes --

15 **Q. No, but you're partially running a Texas**  
16 **prison system where lots of people have died.**

17 A. The mitigation --

18 **Q. So maybe you ought to know this one.**

19 MS. BURTON: Objection to the  
20 side-bar. Argumentative question.

21 MR. EDWARDS: It's not a side-bar.

22 **Q. (BY MR. EDWARDS) Don't you think you**  
23 **should know the answer to this question, sir?**

24 A. The mitigation efforts that we have in  
25 place are targeting the individual's temperature.

1 So we're trying to cool the offender's temperature.

2 You're talking specifically about the  
3 housing area, and I understand that. And I'm not,  
4 again, a temperature expert. But the efforts that  
5 we have in place are trying to lower the offender's  
6 temperature, so their individual temperature is what  
7 could help them deal with that temperature.

8 **Q. Okay. Is it your testimony that the Texas**  
9 **Department of Criminal Justice's mitigation measures**  
10 **are designed to lower individual people's**  
11 **temperatures during the summer months?**

12 A. I think that staying --

13 **Q. That's what you said, so I just want to be**  
14 **crystal clear. Is that what you meant?**

15 A. Staying hydrated, taking breaks, dealing  
16 with extreme temperatures, the things we have  
17 outlined within those protocols, target trying to  
18 ensure that offenders can adequately deal with the  
19 temperatures that they're addressed with.

20 That would include things that help  
21 lower their temperature, help make them more  
22 comfortable and more able to tolerate the heat  
23 within the facility.

24 **Q. What measures do you contend on behalf of**  
25 **TDCJ lower offenders' temperatures?**

1 A. Respite areas would be one of the most  
2 obvious, wearing shorts in dayroom and housing  
3 areas.

4 **Q. Okay.**

5 A. Being able to consume ice water, being  
6 able to take frequent showers, being able to stand  
7 in front of a fan if they're perspiring, which will  
8 help lower their body temperature.

9 **Q. Okay. So just so I'm clear, before we get**  
10 **back to the reducing the temperature, your**  
11 **understanding is that respite areas actually lower**  
12 **the temperature of the inmates?**

13 A. Yes, sir, I would believe that's fair. I  
14 would say it makes them more comfortable. I haven't  
15 taken a temperature reading of that specific  
16 offender. But it would be something to help ensure  
17 that they can address the heat. Getting out of that  
18 is one of the ways you would do that. The respite  
19 area provides them a cooler environment to rest  
20 before they go back into that area.

21 **Q. Is it your testimony that wearing shorts**  
22 **reduces the temperature of inmates?**

23 A. Wearing shorts is one of the things you  
24 can do to help be more comfortable and potentially  
25 lower your body temperature.



1           **Q.     Okay.    So we've got respite areas and**  
2 **shorts lowering the body temperature.   Ice --**  
3 **drinking water and ice water, that would also lower**  
4 **the body temperature, according to the TDCJ?**

5           A.    Those are measures --

6                       MS. BURTON:   Objection.   If --  
7 misstates his capacity.

8           **Q.    (BY MR. EDWARDS)   According to you?**

9           A.    Staying hydrated would be one of the steps  
10 you take to mitigate high temperature.

11          **Q.    That's not my question, though.**

12                       **Do you believe that drinking water or**  
13 **ice water lowers a person's temperature?**

14          A.    I believe that drinking ice water is one  
15 of the steps you can take to help mitigate your body  
16 temperature.

17          **Q.    So does that mean, yes, it would lower**  
18 **your body temperature?**

19          A.    I'm not saying if it lowers it.   I'm  
20 saying it may prevent it from raising.   But I'm  
21 saying it is one of the ways you try to be  
22 comfortable within that heat.   Staying hydrated is  
23 important.

24          **Q.    Is it your understanding that taking**  
25 **showers reduces a person's temperature?**

1 **Right?**

2 A. Yes, sir.

3 **Q. Okay. Do you know what the word**  
4 **"imminent" means?**

5 A. Yes, sir.

6 **Q. What does it mean?**

7 A. Immediate.

8 **Q. Okay. Would it concern you if a warden**  
9 **thought it meant possible?**

10 A. It would depend on the context of the  
11 warden's discussion.

12 **Q. What do you mean by heatstroke imminent?**

13 **It means that it's possible.**

14 **Would that concern you?**

15 A. No, sir.

16 **Q. Oh, okay. Wouldn't concern you that a**  
17 **warden had a just totally incorrect interpretation**  
18 **of the word imminent?**

19 A. The policy and the language that you're  
20 talking about talks about steps we take when  
21 temperatures get to that level. It certainly  
22 doesn't mean that anyone exposed to that temperature  
23 immediately has a heatstroke. If that's the context  
24 of the warden's response, then, no, I wouldn't have  
25 an issue with that.

1 Legislature and list that item as an item that we  
2 needed to have funding for.

3 **Q. Anything preventing you from doing that?**

4 A. We identify as we go into legislative  
5 session, our request for maintenance dollars. We  
6 also identify the request for maintenance projects.

7 I'm not aware of a project being  
8 involved in -- currently, that includes  
9 air-conditioning a facility where that doesn't  
10 exist.

11 **Q. Okay. But it's certainly possible. All**  
12 **you have to do is tell the Legislature you'd like to**  
13 **do it and then get board approval. Right?**

14 A. No, sir. Not nearly that simple.

15 **Q. Help me out, because it sure seems that**  
16 **simple.**

17 A. Certainly is not that simple. What would  
18 happen is, if we identified a maintenance need to  
19 add air-conditioning to an existing facility, we  
20 have a list of maintenance projects that probably  
21 total in the neighborhood of three to four hundred  
22 million dollars at any given time.

23 **Q. Okay.**

24 A. We get and typically have gotten between  
25 40 and 80 million dollars a biennium to do as many

1 of those projects as that money will go.

2 **Q. Okay.**

3 A. So we're certainly not funded for all of  
4 those items.

5 **Q. But you're --**

6 A. They are prioritized based on what we see  
7 as the most imminent need items that we're facing.

8 MS. BURTON: Wait. Let him finish.

9 **Q. (BY MR. EDWARDS) Are you telling me that**  
10 **you're funded for 40 million to 80 million dollars a**  
11 **biennium for maintenance projects?**

12 A. Typically, yes, sir.

13 **Q. Okay. How many people died, to your**  
14 **knowledge, as a consequence of the less than**  
15 **adequate kitchen floor at the Pack Unit?**

16 A. I'm not aware of any offender dying  
17 specifically related to the floor. But I do know if  
18 we weren't able to feed at the Pack Unit, that would  
19 become an immediate operational issue for the entire  
20 unit population.

21 **Q. Right. So how many people died as a**  
22 **consequence of this less than adequate kitchen floor**  
23 **at the Pack Unit?**

24 A. Less than adequate oversimplifies the  
25 issues with the floor. You're talking about a floor



1 say, you know what, if we could do it for this, then  
2 I would consider it?

3 A. If the collective -- if the agency felt  
4 that air-conditioning was what we felt like we had  
5 to do, and we felt like that's the only way we can  
6 address this issue, regardless of the cost, we could  
7 move that issue forward with a discussion with the  
8 Legislature. That may or may not lead to a  
9 discussion further if it's funded.

10 Q. So cost, really, from -- from what you're  
11 telling me, the cost, whether it's one dollar or a  
12 billion dollars, really is irrelevant; it's just a  
13 question of is it needed and is it beneficial?

14 A. No, sir. It's a -- what I'm trying to get  
15 across -- and I may not be doing it very well.

16 Q. Fair enough. I may not be listening well.

17 A. Is that the cost being likely very, very  
18 high, puts it out of solutions that we could easily  
19 add, change within the agency.

20 It's a much more complex issue than  
21 just TDCJ wants to air-condition a unit.

22 If we chose, as an agency, based on  
23 our collective discussions, evaluations, felt like  
24 that's what we needed to do, then we could have that  
25 discussion further, outside of the agency, is what

1 I'm saying.

2 Q. Okay. If you chose to just air-condition,  
3 say, half the Gurney Unit, that's not a  
4 billion-dollar project. Right?

5 A. I doubt it.

6 Q. Well, okay. That's where three people  
7 have died. You are aware of that. Right?

8 A. I am aware, based on our discussion, yes,  
9 sir.

10 Q. Okay. \$10 million, which I think is much  
11 higher than it probably would be, but let's just use  
12 \$10 million. That's something that could fit within  
13 your 40 to 80 million dollar stuff. Right?

14 A. If it were an item -- every project that  
15 we have that we get funding for, in other words, the  
16 40 or 80 million we receive from the Legislature, is  
17 tied back to, specifically, items that we have  
18 provided information to the Legislature on needing  
19 to be funded.

20 Q. Got you.

21 A. So we would have to have told the  
22 Legislature that we want that item funded and then  
23 have that item be funded before we could proceed.

24 Q. And if it's under a million dollars, Brad  
25 Livingston can okay it on his own. Right?

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,**  
***Plaintiffs,***

**v.**

**BRAD LIVINGSTON, *et al.*,**  
***Defendants.***

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**CIVIL NO. 4:14-CV-3253**

**Exhibit 58**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

STEPHEN MCCOLLUM, STEPHANIE )  
KINGREY, and SANDRA McCOLLUM, )  
individually and as heirs at )  
law to the Estate of LARRY GENE )  
McCOLLUM, )  
Plaintiffs, )

vs. )

CIVIL ACTION NO.

3:12-CV-02037

BRAD LIVINGSTON, JEFF PRINGLE, )  
AND THE TEXAS DEPARTMENT OF )  
CRIMINAL JUSTICE, )  
Defendants. )

\*\*\*\*\*

ORAL AND VIDEOTAPED RULE 30(B)(6) DEPOSITION OF  
THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE (ROBERT EASON)  
MARCH 26, 2013

\*\*\*\*\*

ORAL RULE 30(B)(6) DEPOSITION OF THE TEXAS  
DEPARTMENT OF CRIMINAL JUSTICE (ROBERT EASON), produced as  
a witness at the instance of the Plaintiffs and duly  
sworn, was taken in the above-styled and numbered cause on  
the 26th day of March, 2013, from 9:42 a.m. to 12:00 noon  
and 1:05 p.m. to 6:39 p.m., before Kathleen Nevils,  
Certified Shorthand Reporter in and for the State of  
Texas, reported by computerized stenotype machine at the  
offices of the Attorney General, 300 West 15th St.,  
Austin, Texas, pursuant to the Federal Rules of Civil  
Procedure and the provisions stated on the record or



Stephen McCollum, et al v.  
Brad Livingston, et al.

Robert Eason  
March 26, 2013

1 night --

2 Q. I understand that. My question, sir, is: Do  
3 you think, as the corporate representative of Texas  
4 Department of Criminal Justice, that it is okay to not  
5 call 911 or get an ambulance -- the process started for a  
6 half hour after it has been determined that an inmate is  
7 in need of emergency medical care?

8 A. I tell you this: They -- again, I wasn't there.  
9 I can't testify to what they were dealing with, what they  
10 were assessing at the time. My understanding of the  
11 situation is is that Mr. McCollum, when he was discovered,  
12 was having a seizure. And of course I wasn't here during  
13 the depositions of the sergeant and the lieutenant, but my  
14 understanding is they said he was having a seizure. He  
15 had an open airway; he was breathing; he had a pulse.

16 And seizures are very common in an  
17 institutional setting. They occur all the time. When  
18 I -- I started as a CO, came up through the ranks. Every  
19 facility I've worked on have a lot of offenders that have  
20 seizures, and at some point they'll come out of that  
21 seizure and we take them to medical. Sometimes they stay  
22 in the medical department, they're observed for a while  
23 and they don't leave the facility by 911.

24 And at the Hutchins Unit, they deal with  
25 seizures quite often, and that's -- that's -- that's

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Stephen McCollum, et al v.  
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Jeffery Pringle  
February 15, 2013

1 A Being at the Hutchins Unit, yes.

2 Q Okay. All right. Does anyone have  
3 responsibility for monitoring the inmates in the dorm  
4 areas to see how they're doing?

5 A The officers have a responsibility for  
6 monitoring dorm areas; and during their inspections,  
7 they would observe the dorm activity.

8 Q Okay. So I want to present you with a  
9 situation. I want -- I just want to figure out how --  
10 let's say there's an inmate who's not eating and just  
11 staying in bed all the time. Should the correctional  
12 officers recognize that? Or what should happen based on  
13 your experience as a supervisor at the Hutchins Unit?

14 MR. GARCIA: Objection; speculation and  
15 incomplete hypothetical.

16 Answer if you can.

17 A The officers work eight hours and 45-minute  
18 shifts. Each shift only has one mealtime during their  
19 activities, so they wouldn't be aware of which offenders  
20 go or not go that I'd -- that I would assume.

21 Q (BY MR. EDWARDS) So is there -- if an inmate  
22 is continually not eating, is there any policy or  
23 practice in place to try to determine why an inmate's  
24 not eating?

25 A There's not a policy in place, per se, that

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Robert Eason  
March 26, 2013

1 at Robertson from September of '05 until September of '09.

2 I was promoted to regional director in  
3 Region IV in Beeville. Was regional director -- so I was  
4 regional director down there for approximately a year.

5 The regional director in Region II retired and I called  
6 and asked my director if I could transfer to Region II to  
7 live a little closer to home. He said "Absolutely."

8 I transferred to Region II as the regional  
9 director and I've been the Region II director since end of  
10 September of 2010.

11 Q. How long have you been in the position of  
12 regional director, though, sir?

13 A. Let's see. Would be four years in September,  
14 so...

15 Q. Okay. Tell me or tell the jury basically what  
16 the -- what the responsibilities and duties of a regional  
17 director are.

18 A. Okay. Basically I'm responsible for managing a  
19 regional budget of \$30 million. I have 11 wardens and 13  
20 facilities I'm responsible for. I have approximately  
21 almost 900 non-security employees in the region and I have  
22 somewhere around 5400 correctional officers. That's COs  
23 and ranking officers that work in my region. I'm  
24 responsible for conducting employee mediations. I'm  
25 responsible for the general operations of the regional

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1 office. I'm responsible for visiting the facilities as  
2 much as -- much as I can. I'm responsible for  
3 coordinating all our security audits in the region, and  
4 there are some facilities that require a security audit  
5 every year, and there are some facilities that require  
6 security audits every two years.

7 Q. Tell the jury -- and I don't mean to interrupt  
8 you, but tell the jury, when you say "security audit," I  
9 know you know what that means, and I may even sort of know  
10 what it means, but if you could tell the jury what you're  
11 talking about so they get a fuller understanding of your  
12 job.

13 A. It's a -- it's a very comprehensive in-depth  
14 audit in every part of our facility, whether perimeter  
15 security, back-gate procedures, cell block procedures,  
16 count procedures or security procedures in our food  
17 service departments, laundry departments. There's a check  
18 list that we use to make sure that we're following our  
19 security policies and procedures, all the security  
20 memorandums and that the officers are following their post  
21 orders.

22 Q. And is that generally to make -- to make  
23 everybody feel safer, that, look, everybody is doing the  
24 job to make sure that people aren't escaping from prisons?

25 A. Absolutely. It's to make sure that we're

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Brad Livingston, et al.

Robert Eason  
March 26, 2013

1 following our security procedures, that we're providing  
2 the public safety that we're -- so we can say, "Hey, we're  
3 doing what we're supposed to be doing. We're following  
4 our policies and procedures in our security memorandum."

5 Q. Okay. I kind of may have cut you off when you  
6 were going through a bit of a list, but when you said  
7 conducting employee mediations, visiting facilities,  
8 coordinating security audits, please continue if there's  
9 any other big aspect to your job.

10 A. We -- of course, all of our facilities go  
11 through the American Correctional Association audit  
12 process, and that process is conducted every three years  
13 on my facilities, and I'm responsible for making sure the  
14 units get ready or they're prepared for that -- that  
15 in-depth audit process because the auditors are  
16 correctional professionals from all over the nation that  
17 would come in and audit what we're doing on our facility.  
18 And so it's my responsibility to make sure that the warden  
19 has got the facility ready.

20 I put teams together and we conduct  
21 walk-throughs on the facility to check, you know, security  
22 operations, food service operations. I've got a  
23 monitoring and standards employee that works for me in the  
24 office. He goes in and looks at all the ACA standards  
25 that we have to meet on the facility, to make sure the

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Brad Livingston, et al.

Robert Eason  
March 26, 2013

1 A. I believe I'm right on that.

2 Q. Why do -- what's the point of having formal  
3 policies like 10.64? Why not just shoot off an e-mail?

4 A. The policy for 10.64 is just to make sure  
5 that -- that we are taking all the steps to mitigate the  
6 heat in a working environment, and it's the same thing  
7 as -- as an e-mail. An e-mail is -- we consider an e-mail  
8 a policy, instructions, and we follow an e-mail from the  
9 director just like we'd follow any other policy.

10 Q. Got you. Who does the -- who does the e-mail  
11 come from? Is that Director Livingston or Director Thaler  
12 or Director Stephens or --

13 A. It comes from Mr. Stephens and Mr. Thaler.

14 Q. So is it your testimony that, yes, we have a  
15 formal policy, 10.64, for dealing with heat temperatures  
16 in the workplace and we also have a policy for dealing  
17 with extreme heat temperatures inside? It just comes in  
18 the form of an administrative e-mail once a year?

19 A. Yes, sir.

20 Q. And is it your testimony on behalf of TDCJ that  
21 that e-mail instructs wardens that they have a duty to  
22 take all steps necessary to mitigates extreme heat inside  
23 their facilities?

24 A. Yes, sir, within --

25 Q. And if --

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1 A. I'm sorry.

2 Q. If wardens do not take all steps necessary to  
3 mitigate heat inside their facilities, in particular their  
4 housing areas, what are the consequences?

5 A. If I may ask a question, can you -- what steps  
6 are we talking about that the wardens are not taking?  
7 Because to my knowledge, all the wardens in my region and  
8 across the state are following that directive and they're  
9 doing everything absolutely possible to mitigate the heat.

10 Q. Okay. There seems -- let me -- there seems to  
11 be some confusion, and if your lawyer thinks I'm speaking  
12 out of turn, I'm sure he'll tell me. But when I am asking  
13 you questions, I'm doing my best to just try and figure  
14 out what it is is the policy, the practice at TDCJ, okay?  
15 Some of my questions will be, well, what if this. It  
16 doesn't mean that it's going on. It doesn't mean that I'm  
17 asking a specific question about the Hutchins Unit or some  
18 other unit. Okay? So if you could -- and, sir, I say  
19 this respectfully -- try to do your best to just answer  
20 the particular question I'm asking. The depo will go, I  
21 think -- I think, more quickly, I think.

22 And so my question is basically: Well, if  
23 the wardens aren't taking all the steps necessary to  
24 mitigate extreme heat inside the facilities -- okay? --  
25 that I suppose are delineated on that administrative

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1 e-mail? What would the consequences be?

2 A. The consequences would be as regional director  
3 stepping in and correcting the issue.

4 Q. Okay. Well, then I guess what steps does -- has  
5 that administrative e-mail been going out since 2009?

6 A. Yes, sir.

7 Q. Okay. Has it changed at all since 2009?

8 A. Not much. I can't -- I can't sit here and tell  
9 you every little change on the e-mail, but it's -- I can't  
10 remember any huge changes.

11 Q. Okay. Since 2009, when you stepped into your  
12 job as regional director, it's your -- it's your  
13 understanding that, look, TDCJ has considered extreme heat  
14 temperatures inside its facilities, inside its housing  
15 areas to be something that it needs to take steps to  
16 mitigate the heat during the summer months; is that fair?

17 A. Yes.

18 Q. Okay. Roughly, since 2009, maybe -- maybe  
19 earlier, but you know from 2009 an administrative e-mail  
20 has gone out instructing all wardens that they do in fact  
21 need to take steps to mitigate the heat inside the housing  
22 areas, correct?

23 A. Yes.

24 Q. Okay. That administrative e-mail, has that  
25 given specific instructions as to what they need to do in

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1 order to mitigate the heat or is that left to the  
2 discretion of the individual wardens?

3 A. Of course, the wardens review the e-mail and  
4 they do the best they can to make sure we're carrying out  
5 every one of those steps.

6 Q. How do you know they do the best they can?

7 A. Because when I visit my facilities in the  
8 summertime, I personally walk housing areas and review  
9 those -- look at those heat-related or those steps to  
10 mitigate the heat. I personally go look at those housing  
11 areas. I personally walk in a housing area and I look to  
12 make sure that offenders are wearing their shorts in the  
13 dayroom, that their fans are operational. All those  
14 different steps, I personally look at those issues.

15 Q. Okay. Let's -- let's go through -- what are the  
16 steps? Since the same e-mail has been going out roughly  
17 since 2009 and it's gone out every year and you're the  
18 person responsible for make sure that happens, what are  
19 the steps that are -- that are supposed to be taken to  
20 mitigate the heat inside the housing areas?

21 A. Number one -- without looking at the document,  
22 but number one, when we have transportation buses coming  
23 on our unit, if they're sitting still for a certain period  
24 of time, we have fans at the back gate we put on the bus,  
25 just to keep the air moving through the bus. We have to

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1 heat, right?

2 A. It's possible, yes, sir.

3 Q. And that's inside the facility as well as  
4 outside the facility, right?

5 A. It's possible, yes, sir, and that's why we take  
6 the steps.

7 Q. What -- what steps are you -- what -- strike  
8 that. Let's see here. What does the expression "heat  
9 stroke imminent" mean to you? And by "you," I mean the  
10 Texas Department of Criminal Justice.

11 A. "Heat stroke imminent." That, I believe, is  
12 part of the policy that we have as 10.64 temperature  
13 extremes in the workplace, and it talks about, I believe,  
14 if I'm not mistaken, "heat stroke imminent" when the  
15 temperature range gets between -- or gets in a certain  
16 range that if you continue to work offenders outside in  
17 those temperatures and you're not taking those steps to  
18 mitigate the heat, that it's possible that an offender  
19 could possibly have a heat stroke or a staff member could  
20 have a heat stroke.

21 Q. Okay. Does "imminent" to you mean possible?

22 A. Yes, it does.

23 Q. Okay. Now, you mentioned fans. I want to -- I  
24 think I may be helping you out here. I think that in the  
25 -- in that e-mail it mentioned that even indigent

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**APPENDIX 1582**



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1 Q. Do you know if it's more than 10?

2 A. No, sir.

3 Q. Would it surprise you that it is more than 10?

4 A. Like I said, I haven't received a document from  
5 my leadership or from anyone about confirmed heat-related  
6 deaths that you're talking about, so I couldn't talk about  
7 that.

8 Q. Does the Texas Department of Criminal Justice  
9 know how many deaths from heat-related illnesses there  
10 have been since 2010 at the prisons it oversees?

11 A. I'm responsible for the prisons in my region,  
12 and I'm --

13 Q. I'm not asking you as Regional Director Eason.  
14 I'm asking you as the representative of the Texas  
15 Department of Criminal Justice. As you testify here  
16 today, do you know how many individuals, inmates inside  
17 your prisons, have died due to heat-related illnesses?

18 A. No, I do not know that.

19 Q. Okay. Have you had any conversations with  
20 anybody at UTMB about the need to document people who are  
21 susceptible to extreme heat from a medical standpoint?  
22 Have you had any conversations with anybody at UTMB about  
23 that?

24 A. I've had not really one-on-one conversations,  
25 but when I have my wardens' meetings, personnel from UTMB

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1 attend my meetings, most of my meetings, and we talk about  
2 all the steps that we -- that we do to mitigate the heat.

3 Q. Anybody ever said, hey, why are we not -- why do  
4 we have the seven-day windows? Actually, strike that. Is  
5 it your -- do you know, the wellness check policy you were  
6 talking about earlier, is that written down anywhere?

7 A. A policy? It's part of the e-mail that the  
8 director puts out about wellness checks. It's part of --  
9 part of that directive.

10 Q. Other than -- was it Mr. Stephens who authors  
11 that directive? Did I get that right or was it  
12 Mr. Thaler?

13 A. Mr. Thaler and Mr. Stephens put out through --

14 Q. Okay.

15 A. -- the CID leadership.

16 Q. Okay. Other than that administrative e-mail, is  
17 that policy or practice at the department -- is that  
18 written down anywhere else?

19 A. To my knowledge, no.

20 Q. Is there any sort of follow-up to make sure that  
21 those wellness checks are being done by your office, the  
22 regional director?

23 A. Can you repeat the question, please? I'm sorry.

24 Q. Is there any sort of follow-up to make sure  
25 those wellness checks are being done at -- at the prisons

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1 by your office, the regional director's office?

2 A. Of course, during the summer months, at each one  
3 of my meetings, we talk about these wellness checks. I  
4 tell the wardens to make sure you're engaged in all those  
5 heat issues where we take those steps to mitigate the heat  
6 and make sure that these wellness checks are being done.  
7 That's talked about during the summer months at our CID  
8 leadership meetings. And when I walk facilities, I check  
9 for those -- those heat restrictions. That's part of --  
10 that I check for. I'll ask the officer questions and I  
11 look for those procedures.

12 Q. Okay. Has anyone, during any of these meetings,  
13 ever said -- ever discussed the need to get these  
14 restrictions or these wellness place -- wellness checks in  
15 place day one as opposed to day six, day seven, day eight?

16 A. To my knowledge, no, I haven't been part of that  
17 conversation, but CID leadership has a lot of meetings  
18 that I'm not a part of with --

19 Q. Sure.

20 A. -- UTMB, Texas Tech, and so I can't comment on  
21 if that's been discussed by my leadership or not. I don't  
22 know.

23 Q. Would you agree with me that certainly people  
24 who have diabetes, hypertension, on diuretics, people that  
25 TDCJ and UTMB categorize as susceptible to extreme heat

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1 death and the circumstances that surrounded it?

2 A. Not that I'm aware of. We still implement  
3 our -- our mitigation -- or all the steps that we take to  
4 reduce heat issues on our facilities. We've been doing  
5 that, conducting our heat training, and we continue to  
6 stay focused on that during the summer months as we always  
7 have.

8 Q. Where do you office out of again, sir?

9 A. Palestine, Texas.

10 Q. Okay. Is there like a -- is it just your -- is  
11 there like an administrative office that you and maybe  
12 your secretary are in, other people?

13 A. Yes, yes. We have a regional office there in  
14 Palestine. It's on one of the facilities.

15 Q. Is it air-conditioned?

16 A. Yes, it is.

17 Q. Okay. Is Warden Pringle's office  
18 air-conditioned?

19 A. Yes.

20 Q. Is every warden's office that you oversee  
21 air-conditioned?

22 A. Yes.

23 Q. It's possible to provide air-conditioning if you  
24 want to, right?

25 MR. GARCIA: Objection: Vague.

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1 THE WITNESS: To provide air-conditioning  
2 on our institutions, that would be a board decision. That  
3 would be a legislative issue to -- for a vote to  
4 appropriate the money, and I have no knowledge whatsoever  
5 as far as what it would take to air-condition our  
6 institutions. I'm not an expert on that, how much money  
7 it would take to air-condition our institutions.

8 And my stance is that we don't need to  
9 air-condition our institutions because we're taking  
10 all the steps that we can to mitigate -- mitigate the  
11 heat.

12 Q. (By MR. EDWARDS) Except for air-conditioning,  
13 right?

14 A. I said before there's not a -- there's not a  
15 need for air-conditioning.

16 Q. Okay. Do you know -- you just told me you have  
17 no knowledge about whether air-conditioning would cost a  
18 lot of money or not, right?

19 A. I'm not a -- I'm not an HVAC technician. I  
20 don't really know a lot about air-conditioning, how much  
21 money it would take.

22 Q. Okay. You're here partly to testify about, you  
23 know, policy decisions by the Texas Department of Criminal  
24 Justice. One just policy decision that I wanted to talk  
25 about was air-conditioning, and I want to be crystal clear

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1 Q. You're now providing cups; is that what you  
2 said?

3 A. Yes, sir.

4 Q. Okay. What about before, when you weren't  
5 providing cups? Do you see any problems with that?

6 A. I don't know for sure that we weren't providing  
7 cups. I've worked in the system, you know, quite a while,  
8 and never worked anywhere where we provided a cup when an  
9 offender came into the system because the offenders in the  
10 housing areas, they have different avenues of how to stay  
11 hydrated. There's -- there's water fountains in the  
12 dormitories. They don't need a cup for that. There's --  
13 there's different avenues to stay hydrated. When they  
14 go -- when they go eat at the dining hall, there's --  
15 there's ice water provided in the dining halls. They're  
16 given a cup at their meal or a glass to drink water during  
17 the meal, so...

18 Q. Are there water fountains at the Hutchins Unit?

19 A. Yes, sir.

20 Q. In -- in the dorms?

21 A. Yes, sir.

22 Q. In C-7, your understanding is that there is a  
23 water fountain?

24 A. Yes, sir. A sink/water fountain. It's a water  
25 fountain.

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1 Q. Okay. When I say "water fountain," I mean like  
2 the kind at school, where I push the button and water  
3 comes out. Is there that kind of water fountain?

4 A. You push a button and water comes up, yes, sir.

5 Q. In a sink?

6 A. Yes, sir.

7 Q. Okay. So when you say there's water fountains  
8 in the Hutchins Unit, you mean there's sinks in the  
9 Hutchins Unit that you could conceivably drink out of,  
10 right?

11 A. Yes, sir. There --

12 Q. Okay.

13 A. You can drink out of the sink.

14 Q. Wouldn't it be easier to drink out of the sink  
15 with a cup?

16 A. No, I wouldn't say it would be easier. I've  
17 taken a drink out of those sinks.

18 Q. You don't think it's easier to drink out of --  
19 to drink water with a cup than with your hands?

20 A. Well, you don't need to drink with your hands.  
21 The water comes up, you bend down and you take a drink  
22 like you're drinking out of a water fountain here in the  
23 office.

24 Q. Why do you issue cups then? Why bother?

25 A. Why bother?

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1 from UTMB? If you don't know, I understand.

2 A. I don't know, sir.

3 Q. Okay. With regard to housing assignments, do  
4 you know if Mr. McCollum was placed on any sort of  
5 restriction?

6 A. Are you talking about a housing restriction?

7 Q. Yeah, like a bed restriction.

8 A. I reviewed -- as part of the admin review,  
9 getting ready for the deposition, I reviewed the HSM 18,  
10 and I don't recall seeing any housing restrictions.

11 Q. Should he have -- that means -- he was placed on  
12 a -- do you understand that he was placed in a top bunk?

13 A. Yes, sir, I understand that.

14 Q. And assume that he's five ten, 300 plus pounds.  
15 Should he have been placed on a top bunk?

16 A. I don't make that decision. That's -- that's  
17 the doctor's decision, whoever evaluates the offender,  
18 because there's specific restrictions for lower and --  
19 lower bunk only, lower level only.

20 Q. Let me ask you about that because he gets off  
21 the bus, a nurse does some sort of basic triage and then  
22 he gets into the facility, right? He hasn't seen the P.A.  
23 or the doctor, right?

24 A. Yes, sir.

25 Q. Okay. So is it the -- the nurse that does that

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1 initial triage, to your understanding, is supposed to do  
2 bunk restrictions?

3 A. No.

4 Q. Who does bunk restrictions?

5 A. That's -- that's a housing restriction just like  
6 a work restriction. The doctor would do that or P.A.

7 Q. Okay. So that would be part of that initial  
8 intake physical?

9 A. Yes, sir.

10 Q. Okay. So just like the -- well, so there's --  
11 it appears to be then there would be a window of time when  
12 someone might be improperly placed in a top bunk when they  
13 should have a lower bunk restriction; is that fair?

14 A. I don't know that to be accurate. Like I said,  
15 I don't know which particular inmates we're talking about.

16 Q. Larry McCollum.

17 A. Okay.

18 Q. Larry McCollum shouldn't have been placed on a  
19 top bunk, right?

20 MR. GARCIA: Objection: Speculation.

21 THE WITNESS: I don't know that, sir. I'm  
22 not a medical professional. I didn't evaluate him.

23 Q. (By MR. EDWARDS) Today, if Larry McCollum went to  
24 the Hutchins Unit, are policies in place to make sure that  
25 a person of his size and stature would not be placed on

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,**  
***Plaintiffs,***

**v.**

**BRAD LIVINGSTON, *et al.*,**  
***Defendants.***

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§

**CIVIL NO. 4:14-CV-3253**

**Exhibit 59**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF TEXAS  
3 HOUSTON DIVISION

3 DAVID BAILEY, ET AL \* 4:14-CV-01698  
4 VS. \* 9:16 a.m.  
5 BRAD LIVINGSTON, ET AL \* MAY 26, 2016

6 HEARING ON PRELIMINARY INJUNCTION AND CLASS CERTIFICATION  
7 BEFORE THE HONORABLE KEITH P. ELLISON  
8 Volume 1 of 4 Volumes

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18 Proceedings recorded by mechanical stenography.  
19 Transcript produced by computer-assisted transcription.  
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1 THE WITNESS: That's a very, very low number.

2 THE COURT: Okay.

3 THE WITNESS: It would -- each year is different,  
4 but generally less than three.

09:41:40

5 THE COURT: Okay.

6 **Q.** (By Ms. Burton) And you would be able to find that  
7 information for the Court on a break?

8 **A.** Yes.

9 **Q.** Okay. Thank you.

09:41:49

10 Now, you mentioned that you are in -- were in charge  
11 of training and now training reports to you.

12 Could you please explain to the Court what kind of  
13 training is in place for the officers of TDCJ with regard  
14 to summer heat precautions?

09:42:08

15 **A.** Sure. Every new cadet that comes in our preservice  
16 academy watches the American Heart Association video as  
17 well as a UTMB-prepared video on heat and cold weather  
18 training. We prepare every single officer. We also give  
19 them what we consider an employee information card, and I  
20 actually carry one myself.

09:42:25

21 **Q.** Let the record reflect he's pulling his information  
22 card out of his pocket.

23 MS. BURTON: And if I may approach the witness,  
24 Your, Honor?

09:42:36

25 THE COURT: Yes, you may.

Laura Wells, CRR, RDR

1 heat-related illnesses, heat-related symptoms so that they  
2 are able to recognize those when they get to a facility.

09:44:31

3 This card just provides a reminder to the employee on  
4 a daily basis as if they review them. We do training and  
5 daily turnouts and daily shift meetings in food service  
6 and daily shift meetings in laundry during the hot summer  
7 months to review -- a little reminder to review the card  
8 so that they are familiar with the signs and symptoms of  
9 heat illnesses.

09:44:45

10 **Q.** So if I -- I think I heard you say they have classroom  
11 training in-service --

12 **A.** We do.

13 **Q.** -- and then they have shift meeting training. It's an  
14 ongoing effort, correct?

09:44:55

15 **A.** That's correct. That's correct. Yearly, annually,  
16 every uniformed employee is required to go through annual  
17 in-service, which is 40 hours. We also conduct training  
18 on heat-related and cold weather-related issues and  
19 training during that time.

09:45:11

20 **Q.** All right. As an additional part, would you please  
21 look at the first part of Exhibit 1.

22 **A.** Okay.

23 **Q.** It says, "E-mail Message" on top. Do you recognize  
24 that document?

09:45:20

25 **A.** I do.

Laura Wells, CRR, RDR

1 videos that is provided by University of Texas Medical  
2 Branch.

3       They also -- they also receive training, which just  
4 began this -- prior to this summer, on peer educator  
09:48:32 5 groups. In other words, offenders train other  
6 offenders -- it's part of peer educators -- on heat and  
7 cold weather training. We just initiated that. I believe  
8 it was around March or April. The reason for that is many  
9 times other offenders will listen to other offenders  
09:48:50 10 sometimes before they will listen to staff.

11       And then, when they are assigned a job assignment, the  
12 supervisor in charge of that job assignment will conduct  
13 heat and cold weather training during those summer and  
14 winter months for those offenders prior to them beginning  
09:49:04 15 their work assignment.

16       For those offenders that do not work, we provide  
17 training by posting information on bulletin boards in our  
18 housing areas and in common areas concerning our heat  
19 directive, training circulars in regards to heat-related  
09:49:19 20 illnesses. We use our posters as training.

21       We also have a system-wide kind of a newsletter that  
22 goes out called the Echo where we post heat-related signs  
23 and symptoms to recognize for offender population and the  
24 need to report. And then, in addition to that, we provide  
09:49:42 25 information in our orientation handbook that every new

*Laura Wells, CRR, RDR*

1 offender coming into TDCJ receives and that offenders on  
2 current existing facilities can receive if requested.

3 **Q.** And when they come into a unit, like if they are  
4 transferred from one unit to the next unit, are they  
09:49:59 5 advised of anything in particular when they enter a new  
6 unit?

7 **A.** Absolutely. When they enter into a new facility, we  
8 are going back over the respite areas with those  
9 offenders, including all the new offenders that are coming  
09:50:15 10 in. We make sure they understand what respite areas are,  
11 what respite means, how to access a respite area.

12 MS. BURTON: Your Honor, I would like to offer  
13 Defendants' Exhibit No. 1.

14 THE COURT: Any objection?

09:50:27 15 MR. EDWARDS: Are the blank pages are they blank  
16 on everybody's?

17 MS. BURTON: Yes.

18 MR. EDWARDS: Is there a reason they are blank?

19 MS. BURTON: I don't know. It might have printed  
09:50:43 20 out; and then, when it got Bates numbered, there was a  
21 blank page on it.

22 MR. EDWARDS: I don't believe I would have an  
23 objection.

24 THE COURT: Well, let's tentatively admit it; and  
09:50:57 25 if we can later read into the record the explanation for

Laura Wells, CRR, RDR

1 85-degree temperatures?

2 MS. BURTON: And, Your Honor, if I may, I will  
3 offer Exhibit 3; and I believe he already said he's not  
4 objected to that.

10:14:36 5 MR. EDWARDS: No objection.

6 THE COURT: Admitted without objection.

7 MS. BURTON: And I would present Defendants'  
8 Exhibit -- I'm approaching with the Defendants' Exhibit  
9 No. 4.

10:14:48 10 THE COURT: Very well.

11 Q. (By Ms. Burton) All right. So does Administrative  
12 Directive 10.64 work with any other directives that TDCJ  
13 provides for temperatures when they reach over 85 degrees?

14 A. Can you repeat your question?

10:15:31 15 Q. Yes. Is there -- well, okay.

16 If you could please look at Exhibit 4 that I just  
17 handed you. What is that?

18 A. This is our Heat Directive of 2016, both in Spanish  
19 and in English.

10:15:43 20 Q. All right. And the first part of it is the Spanish  
21 version; is that right?

22 A. That's correct.

23 Q. And if you could turn to Bates number page  
24 TDCJ-108327. Would you please explain to the Court what  
10:16:03 25 that is.

Laura Wells, CRR, RDR

10:16:22 1 **A.** This is a mainframe e-mail that is sent out to all  
2 facilities and staff of our heat directive that's put out  
3 in 2016 concerning precautionary measures that should be  
4 taken in all facilities and work areas that involve  
5 offenders and staff.

6 **Q.** All right. And so when the warden is looking at the  
7 heat matrix chart that's listed on AD 10.64, Defendants'  
8 Exhibit No. 3, are these some of the measures that the  
9 warden is also supposed to implement?

10:16:43 10 **A.** Yes.

11 **Q.** Okay. And what authority does a directive have with  
12 regard to what TDCJ employees have to do?

13 **A.** This heat directive is put out by our correctional  
14 institutions division director, and it is considered a  
10:17:00 15 standing order that is considered policy because it is a  
16 directive.

17 **Q.** And so what does that mean as far as what people have  
18 to -- or employees of TDCJ, what does that mean in terms  
19 of what they are supposed to do?

10:17:12 20 **A.** That these precautionary steps to reduce heat illness  
21 amongst offenders and staff must be followed.

22 **Q.** And how is this directive determined? Who determines  
23 what it is going to say?

24 **A.** Well, we meet annually prior to the summer months from  
10:17:31 25 various departments; and we meet about what can we do to

Laura Wells, CRR, RDR



1 reduce heat illnesses within TDCJ. On Bates number 77232,  
2 No. C, on page 7 of 13, it outlines that we --

3 **Q.** On Exhibit 3 you are talking about?

4 **A.** Yes.

10:17:50 5 **Q.** Okay. Go ahead.

6 **A.** It outlines representatives from various divisions  
7 shall meet annually to review best practices concerning  
8 preventive care and precautions with extreme temperatures.

9 And so, we do meet annually. I believe it was March the  
10:18:07 10 24th we met this year of 2016, and those divisions met.

11 We can see on the heat directive it outlines -- on  
12 Bates number 108324 it outlines which departments were  
13 present at that meeting, and we reviewed best practices.  
14 I was there personally. We reviewed best practices. We

10:18:35 15 enhanced the heat directive message from the year previous  
16 by adding a few areas to the precautions to take for the  
17 staff.

18 **Q.** And what were those enhancements?

19 **A.** Well, on the first one, we added from wellness --  
10:18:52 20 instead of wellness checks, we added respite areas to that  
21 in that first category.

22 **Q.** All right. Why would you use an annual heat message  
23 instead of just an administrative directive? Why does  
24 TDCJ do it this way?

10:19:14 25 **A.** Well, it gives us an opportunity to bring in all of

*Laura Wells, CRR, RDR*

1 those departments to have a solid discussion about what  
2 are some of the best practices out in the field, what can  
3 we do better each year and then put that out as a  
4 directive each year because this is a fluid document that  
5 changes each year as we enhance our protocols and  
6 mitigating steps to reduce heat-related illnesses.

10:19:29

7 **Q.** All right. And so, does Administrative Directive  
8 10.64 then work in conjunction with this message or not?

9 **A.** Yes.

10:19:47

10 **Q.** And do both of them carry the same significance in  
11 terms of what the policies and practices of TDCJ are?

12 **A.** Yes.

13 **Q.** Now, we were still going through Exhibit 3, the  
14 administrative directive. You had started to explain what  
15 some of the changes were for the 2015 version. You told  
16 us about two.

10:20:07

17 Were there any other changes that come to mind that  
18 this policy has?

19 **A.** Yes. We specifically outlined, if my memory serves me  
20 right, the training section that we will provide  
21 preservice and that we provide additional heat-related  
22 training in preservice and in-service training sessions.

10:20:23

23 We added an annual review of deaths occurring during  
24 periods of extreme temperatures. Basically, during the  
25 summer months, from June 1st through September the 30th,

10:20:45

Laura Wells, CRR, RDR

1 heat wave is the type of emergency condition that is  
2 similar to a tornado or a hurricane in that it can kill  
3 many people?

11:09:45

4 **A.** Well, I wouldn't -- I wouldn't agree with that  
5 characterization.

6 **Q.** Why not?

7 **A.** Well, because we have mitigating factors in place that  
8 we believe have been successful since 2013 and to this  
9 date.

11:10:01

10 **Q.** How has the incident command structure changed since  
11 2013?

12 **A.** Well, we have gotten better at what we do. Our  
13 policies have evolved. Our heat directive has evolved.  
14 You can see a change in 10.64 has evolved. We have better  
15 practices in place, and we did learn from 2011.

11:10:16

16 **Q.** Well, what do you -- do you know what a heat wave is,  
17 sir?

18 **A.** Well, I would consider a heat wave in my personal  
19 opinion to be --

11:10:27

20 **Q.** I'm not asking -- I'm not asking for your personal  
21 opinion, sir. What does TDCJ consider a heat wave to be?

22 **A.** What does TDCJ consider a heat wave to be?

23 **Q.** Yeah.

11:10:43

24 **A.** Well, it would come from -- the heat advisory would  
25 come from our SOC, state operation center in Austin,

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,**  
*Plaintiffs,*

**v.**

**BRAD LIVINGSTON, *et al.*,**  
*Defendants.*

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**CIVIL NO. 4:14-CV-3253**

**Exhibit 60**

Lannette Linthicum - 1/13/2016

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

STEPHEN McCOLLUM and SANDRA  
McCOLLUM, individually, and  
STEPHANIE KINGREY,  
individually and independent  
administrator of the Estate  
of LARRY GENE McCOLLUM

PLAINTIFFS

v.

LANNETTE LINTHICUM, JEFF  
PRINGLE, RICHARD CLARK,  
KAREN TATE, SANDREA SANDERS,  
ROBERT FASON, the UNIVERSITY  
OF TEXAS MEDICAL BRANCH and  
the TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE

DEFENDANTS

KEITH COLE, JACKIE BRANNUM,  
RICHARD KING, DEAN ANTHONY  
MOJICA, RAY WILSON, FRED  
WALLACE, and MARVIN RAY  
YATES, individually and on  
behalf of those similarly  
situated,

Plaintiffs,

v.

LANNETTE LINTHICUM, in his  
official capacity, ROBERTO  
HERRERA, in his official  
capacity, and TEXAS  
DEPARTMENT OF CRIMINAL  
JUSTICE,

Defendants.

CIVIL ACTION NO.  
4:14-cv-3253  
JURY DEMAND

CIVIL ACTION NO.  
4:14-cv-1698

**WRIGHT WATSON & ASSOCIATES**

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Lannette Linthicum - 1/13/2016

1 Q. So is your answer "yes"?

2 A. Yes. Not ought to, but we do. That's what I want to  
3 change about your question.

4 Q. Let me help you then.

5 Not only ought you to, you're telling the Court  
6 and the jury, "That's what we do. We operate our prison system  
7 with regard to providing healthcare the same way that anybody  
8 in the community would go to. We don't discriminate against  
9 inmates just because they're housed in prison," fair?

10 A. You're putting words in my mouth. What I'm saying is  
11 we operate our healthcare system according to community  
12 standards of care and national standards of care. The  
13 University of Texas medical branch in Galveston provides  
14 healthcare to over 120,000, roughly, prisoners in the criminal  
15 justice system. The Texas University Health Sciences Center  
16 provides healthcare to the remainder in the western sector of  
17 the state.

18 Not only that, Texas Tech contracts with seven  
19 community hospitals, and it is those community hospitals that  
20 actually provide the care on our prison units, and I'll give  
21 you an example.

22 Q. Sure.

23 A. The Robertson Unit in Abilene, Texas; the Havins Unit  
24 and the Middleton Unit in West Texas.

25 The medical staff on those prison units are

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1 Q As the director of TDCJ's Health Service Division,  
2 it's your understanding that there would be a coding mechanism  
3 in the electronic medical record that could tell you this is  
4 how many prisoners we're treating for diabetes?

5 A That would be my -- that's my assumption, yes.

6 Q Okay. Or how many prisoners are diabetics?

7 A Yes.

8 Q Now, at the Pack Unit, according to these  
9 interrogatory responses, there are 728 inmates who have been  
10 diagnosed with hypertension?

11 A Yes.

12 Q And that was -- that number was derived the same way  
13 we just talked about; it came from Dr. -- from Ms. Osteen at  
14 UTMB?

15 A Well, Ms. Osteen, I'm sure, didn't do it, but it came  
16 from UTMB.

17 Q It came to you --

18 A From --

19 Q -- from Ms. Osteen at UTMB?

20 A Correct. Correct.

21 Q Okay. Now, one of the questions that we had asked is  
22 how many inmates at the Pack Unit have been diagnosed with  
23 cardiovascular disease. Is that the coronary artery disease  
24 that we just talked about, the CAD?

25 A Yes.



Lannette Linthicum - 1/13/2016

1 universally applies to all asthmatics. That's why we do  
2 individualized care and therapy. People don't fit into a  
3 recipe book. Unfortunately, you have to look at the individual  
4 and the individual's need and develop a treatment plan based on  
5 that individual.

6 So we talked about our asthmatic and COPD  
7 population and whether or not during the period where the  
8 temperatures are hot, whether we need to bring them into  
9 infirmery beds for the -- for the portion of summer when its  
10 hot.

11 Q. When would these conversations -- it sounds to me,  
12 correct me if I'm wrong, it sounds to me like since you've been  
13 working there, you've been part of this Joint Medical Group  
14 dealing with heat precautions from May to October; is that  
15 fair?

16 A. Yes.

17 Q. Okay.

18 A. Well, not since I've been working there. Since I've  
19 been the director in 1998.

20 Q. 1998ish?

21 A. Yes. 1998 is when I was appointed.

22 Q. And I don't recall when Dr. Murray -- I know he's  
23 been there a while, but 2004ish maybe?

24 A. I don't know.

25 Q. It is what it is.

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11:24 1 acclimation process much more difficult, you wouldn't  
11:24 2 dispute that as a doctor?

11:24 3 A. It would depend on what she said.

11:24 4 Q. Well, what if she said that diabetes prevents  
11:24 5 the body from acclimatizing or it makes it more  
11:24 6 difficult for the body acclimatizing?

11:24 7 A. I would, I would probably dispute that. I  
11:24 8 would probably say there is a subset of diabetics who  
11:24 9 have end-stage organ disease that may be susceptible to  
11:24 10 that. But not all diabetics in the course of their  
11:24 11 diabetes or end-stage and manifest arteriopathy which  
11:25 12 is, you know, dysfunction of the blood vessels.

11:25 13 Q. Well, what, what support do you have for the,  
11:25 14 for the statement that not all diabetics have problems  
11:25 15 acclimating to high temperatures?

11:25 16 A. Well, I'm basing -- basing that statement on  
11:25 17 what I see. We have 9,000 diabetics statewide. And not  
11:25 18 all 9,000 diabetics are having heat-related illness.

11:25 19 Q. All right. Do you know if hypertension makes  
11:25 20 it more difficult for the body to acclimate?

11:25 21 A. Again, hypertension is just like diabetes. Not  
11:25 22 all persons with hypertension have in-organ effects from  
11:25 23 hypertension. It depends on how long hypertension has  
11:25 24 been present, if it's long standing, if there's in-organ  
11:26 25 damage. It depends on the type of medications you use

11:26 1 to treat the hypertension. So there are multifactorial  
11:26 2 issues so that again, and I've, and I've testified to  
11:26 3 this, you know, for the past two days. Patients don't  
11:26 4 fit in a cookbook. Everybody's individualized and your  
11:26 5 treatment plans have to be individualized.

11:26 6 Q. Do, do you know whether or not the elderly  
11:26 7 population is at greater risk of heat-related illness  
11:26 8 than the non-elderly population?

11:26 9 A. The elderly population risk is primarily due to  
11:26 10 the chronic disease present in that population. And  
11:26 11 many of the elderly have multi-system disease. So they  
11:26 12 could be diabetic, they could have cardiovascular  
11:26 13 disease, they could have renal disease. I mean, they  
11:26 14 have multiple chronic comorbidities.

11:27 15 Q. Okay. What policies are you aware of, or do  
11:27 16 you know, that TDCJ implemented following the deaths in  
11:27 17 2011 were specifically because of the deaths in 2011  
11:27 18 that it began prior to the summer of 2012.

11:27 19 A. We continued the policies in place.

11:27 20 Q. Okay.

11:27 21 A. We met on an annual basis to see if there  
11:27 22 needed to be any adjustments or changes to current  
11:27 23 policy.

11:27 24 Q. Well, what --

11:27 25 A. And we reviewed disease management guidelines

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,**  
*Plaintiffs,*

**v.**

**BRAD LIVINGSTON, *et al.*,**  
*Defendants.*

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**CIVIL NO. 4:14-CV-3253**

**Exhibit 61**

Brad Livingston - 10/1/2015

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

STEPHEN McCOLLUM and SANDRA )  
McCOLLUM, individually, and )  
STEPHANIE KINGREY, )  
individually and independent )  
administrator of the Estate )  
of LARRY GENE McCOLLUM )  
PLAINTIFFS )

VS. )

CIVIL ACTION NO.  
4:14-cv-3253  
JURY DEMAND

BRAD LIVINGSTON, JEFF )  
PRINGLE, RICHARD CLARK, )  
KAREN TATE, SANDREA SANDERS, )  
ROBERT FASON, the UNIVERSITY )  
OF TEXAS MEDICAL BRANCH and )  
the TEXAS DEPARTMENT OF )  
CRIMINAL JUSTICE )  
DEFENDANTS )

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION OF

BRAD LIVINGSTON

October 1, 2015

Volume 1

\*\*\*\*\*

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**APPENDIX 1613**

Brad Livingston - 10/1/2015

1 A. As I said a moment ago, I don't recall the exact  
2 date. It would have been, to the best of my recollection,  
3 December of 2014, January or February of 2015.

4 Q. Do you remember the lawyers that -- that defended you  
5 at that deposition. And by that I mean, the lawyers for the --  
6 I assume it's for the Attorney general's office, or it was a  
7 private lawyer?

8 A. The Attorney General's office. I don't -- I  
9 apologize. I don't recall off the top of my head who the  
10 leading attorney was.

11 Q. Do you remember the name of the lawyer who was asking  
12 you the questions?

13 A. I do not.

14 Q. I assume that that suit was against you in your  
15 official capacity. And by that I mean, essentially against the  
16 State of Texas, but as the head of the agency; is -- is that  
17 true?

18 A. I don't recall exactly, but to the best of my  
19 recollection, yes.

20 Q. I understand that you are now the head of the Texas  
21 Department of Criminal Justice; is that correct?

22 A. I serve as the executive director. That's correct.

23 Q. What is the job of the executive director, sir?

24 A. As the executive director of TDCJ, I lead and manage  
25 a group of division directors. We have 17 divisions within the

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**APPENDIX 1614**

Brad Livingston - 10/1/2015

1 Texas Department of Criminal Justice, 15 of those divisions and  
2 division directors report to me; the other two report to a  
3 nine-member governing board.

4 We have overall jurisdiction over the entire  
5 adult criminal justice system in the State of Texas, which is  
6 comprised of probation. There are roughly 250,000 probationers  
7 who are in direct supervision throughout the course of --  
8 throughout the State, 122 local probation departments receive  
9 standards and funding from TDCJ. So one of our divisions is  
10 specifically aimed and geared towards the probation function  
11 within the State of Texas.

12 We operate the incarceration system within the  
13 State of Texas. We have 109 --

14 THE COURT: Slow you down just a little bit.  
15 She's got to stay with every word.

16 THE WITNESS: Okay.

17 A. We have 109 facilities scattered across the state.  
18 We're housing 148,000 offenders roughly within the  
19 incarceration function. A number of other divisions provide  
20 ongoing support, functions, and activities within -- within the  
21 incarceration function with respect to treatment, education,  
22 and other support functions.

23 We also have jurisdiction over the State's  
24 parole supervision function. We have roughly 88,000 offenders  
25 under parole -- direct parole supervision in the State of

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Brad Livingston - 10/1/2015

1 Texas. We provide that street supervision with roughly 1300  
2 parole officers in 67, I believe, offices across the state as it  
3 relates to my direct responsibilities. We have, again, with  
4 respect to that overall responsibility, our primary mission is  
5 public safety and rehabilitating offenders.

6 We have, I believe, over the last several years  
7 an effective -- an effective result with respect to recidivism.  
8 The recidivism rates in the State of Texas are one of the best  
9 in the nation. Our recidivism rates for prison offenders is  
10 roughly 21 percent for offenders.

11 THE COURT: I can tell you really know your  
12 subject, but you may be going a little bit fast.

13 THE WITNESS: Okay. Yes, Your Honor.

14 THE COURT: Ms. Guerra, is that...

15 THE REPORTER: Yes, Your Honor.

16 THE COURT: Okay. Please carry on.

17 A. Our recidivism rate for offenders within the prison  
18 is roughly 21 percent. It's one of the best in the country.  
19 That recidivism rate has continue to decline over the course of  
20 the last decade.

21 We have also reduced parole revocations pretty  
22 significantly over the last several years ago. I believe  
23 that's six-and-a-half percent in the most recent fiscal year.  
24 One of the results has manifested itself in reduction in  
25 incarceration population. We recently had 156,000 offenders as

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Brad Livingston - 10/1/2015

1 recently as 2008; and, now, as I pointed, it's roughly 148,000.  
2 Given that trend downward, the State was able to close three  
3 prisons in the last two legislative -- or three legislative  
4 sessions. And that certainly one -- one indicator, I believe,  
5 of -- of the effectiveness that we've been able to bring to  
6 bear.

7 In terms of the treatment diversion programs  
8 that we have in our state, we have a very fairly, and ongoing  
9 fluid dynamic reentry program. We have begun issuing  
10 identification documents, social security cards and birth  
11 certificates for a significant number of offenders who are  
12 released from TDCJ that increases their likelihood of -- of  
13 housing successfully and finding jobs and diminishing the  
14 likelihood of their revocation. We have very extensive mental  
15 health treatment diversion programs geared towards providing  
16 mental health services to offenders who are -- are in the  
17 community, such that they can remain in the community.

18 Just in terms of the incarceration function, we  
19 have over 10,500 treatment beds within the system. We spend  
20 over a \$100 million or roughly \$100 million providing that  
21 several treatment or substance abuse treatment. Again, that --  
22 that collection of resources has served to pretty significantly  
23 reduce recidivism and revocations within our system.

24 TDCJ, also, incarceration function has very --  
25 very expansive and extensive support to include our industry

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**APPENDIX 1617**

Brad Livingston - 10/1/2015

1 function. Our Health Services function is an extremely  
2 important function. They partner with our two medical  
3 partners, UTMB and Texas Tech. We send roughly \$537 million a  
4 year for offender healthcare. I've only touched on -- although  
5 a pretty significant range of our -- of our operations, it's  
6 still, nonetheless, just a partial list.

7 The scope and breadth of our -- of our  
8 organization is very extensive. Many people think in terms of  
9 TDCJ as being just a prison system. We are, in fact, not -- we  
10 are, as a pointed out, responsible for the entirety of the  
11 criminal justice system to include probation and treatment and  
12 so forth. We're \$3.4 billion a year enterprise with all the  
13 complexities associated with that.

14 In terms of my responsibility is, frankly, to  
15 put the right people in the right position in terms of division  
16 directors who I rely on. They have tremendous backgrounds and  
17 expertise and experience in their fields of responsibility,  
18 and I -- I rely extensively on day-to-day operational  
19 responsibilities. As the executive director, my primary  
20 function is to put the right people in the right positions and  
21 then delegate appropriately.

22 Q. (BY MR. EDWARDS) Would it be fair to say that -- but  
23 when say that you rely on the people that you put in these  
24 right positions that you're in constant communication with them  
25 in case problems arise that you can deal with them effectively?

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Brad Livingston - 10/1/2015

1           A.     I certainly have ongoing dialogue and discussion with  
2 those division directors, as well others, but, certainly, I  
3 have more ongoing dialogue and discussion with some than  
4 others; but it's fair to say that I manage and lead very  
5 extensively through verbal communication with those who work  
6 for me.

7           Q.     Would another way to say that be that as the head of  
8 the agency, you rely on the people that you appoint to  
9 positions, but that you do so by getting information from them  
10 about particular problems that they notice and are trying to  
11 solve?

12          A.     I would ask you to clarify the question a little bit,  
13 please, or repeat it at least.

14                   MR. EDWARDS:   Would you mind repeating the  
15 question to Mr. Livingston, please.

16                   (Requested portion read back.)

17          A.     I would say, yes, with this context and caveat:   With  
18 the size and scope and breadth of our operations.   I also  
19 expect those individuals who work for me to use their best  
20 judgment about, you know, what level of operational detail they  
21 feel is important to bring to my attention.   Certainly, it's --  
22 it would not be effective at all for -- for an executive  
23 director of this large enterprise to expect those division  
24 directors to keep me informed of everything that's going on, on  
25 our facilities or in our parole offices or probation

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1 departments or any of one of our departments. But, clearly, my  
2 expectation and part of the way manage is to have not just one  
3 way of discussions, but two-way discussions when they inform me  
4 as well.

5 Q. (BY MR. EDWARDS) Sure.

6 As I hear you talking, it sounds like major  
7 problems would be brought to your attention then. Is that  
8 fair?

9 A. I think it's accurate to say that major problems  
10 would be brought to my attention.

11 Q. For instance, not every fight or assault that happens  
12 in the prison would be brought to your attention, correct?

13 A. Correct.

14 Q. I assume not every death in a prison would be brought  
15 to your attention; is that correct?

16 A. That's correct.

17 Q. Okay. But a pattern of deaths or -- well, strike  
18 that.

19 Would you a pattern of death identified by some  
20 of these people that you've put in charge be brought to your  
21 charge, at least according to your expectation?

22 A. I think with respect to a pattern, certainly to the  
23 extent that they are aware of the pattern and have identified  
24 it as such as, it would be my expectation, yes.

25 Q. Ultimately, you're responsible for training at the

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1 Q. Okay.

2 A. And just -- and just to clarify, you -- you reference  
3 that me -- that I specifically recommend to them. The nature  
4 of the agenda item isn't structured as a project the executive  
5 director is recommending for their approval. The agency and I  
6 recognize I'm the executive director of TDCJ, but as the  
7 executive director I'm obviously not, although I'm not  
8 officially able to review any document and every report that  
9 the agency produces as an individual, Brad Livingston, I do not  
10 and cannot review every document and report that we have.

11 So it's fair to say that the agency presents  
12 projects for board approval; but, again, more specifically, I  
13 do not recall whether they've denied one.

14 Q. If you were specifically against one of your  
15 director's ideas/reports that was greater than \$1 million,  
16 would it be presented to the Board of Criminal Justice?

17 A. Could you repeat the question, please?

18 Q. If you were specifically against a plan for any sort  
19 of construction project that was greater than \$1 million -- you  
20 didn't want it to do. It didn't have your backing -- would it  
21 be presented to the Board of Criminal Justice?

22 A. That's a hypothetical that has never dropped up.  
23 I'm -- I'm not sure I could answer that.

24 Q. Well, have you ever been opposed to any of the ideas  
25 of your directors that may cost more than a million dollars

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1 administrative function who has do his or her job without  
2 air-conditioning, right?

3 A. I'm unaware of a situation or circumstance where  
4 they're not.

5 Q. Well, do you know why that situation continues to  
6 exist in the Texas prison system?

7 MS. BURTON: Objection. Vague.

8 THE COURT: He's asking him why.

9 I don't think that's necessarily vague, but I'm  
10 going to allow him to answer it.

11 A. Could you repeat the question, please?

12 Q. (BY MR. EDWARDS) Do you know why that condition  
13 continues to exist in the Texas prison system?

14 A. If I understand your question, the facilities that we  
15 operate across the state have, as you know, some of the  
16 facilities are air-conditioned in housing areas and some are  
17 not. We have a very extensive set of protocols in place to  
18 make sure that we mitigate the impacts of heat in our system,  
19 across the state, and the facilities that aren't in place were  
20 constructed as they're -- as they currently exist.

21 Q. So is the reason why the distinction between inmate's  
22 housing areas and administrative areas simply because that's  
23 the way they were done, and you believe the mitigation issue  
24 measures you have in place are sufficient to protect the  
25 prisoners?

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1           A.    I believe our mitigation efforts are both extensive  
2 and appropriate for mitigation efforts across the board that  
3 have wide range of -- of subparts and -- and everything from  
4 training to the mitigation efforts with respect to fans and  
5 water and training medical identification of offenders that are  
6 -- have certain medical conditions. I think in totality the  
7 mitigation efforts that we have in place provide the -- the  
8 necessary mitigation.

9           Q.    Is that why you have -- well, have you ever  
10 considered installing or retrofitting any area of any  
11 nonair-conditioned housing area?

12          A.    Can you repeat the question, please?

13                   MR. EDWARDS: Sure. Abby, would you mind  
14 repeating that to Mr. Livingston, please.

15                   THE REPORTER: Sure.

16                   (Requested portion read back).

17          Q.    (BY MR. EDWARDS) Do you understand the question,  
18 sir?

19          A.    I believe so.

20                   None of my division staff, who I rely on and  
21 trust their expertise, have ever recommended that we  
22 air-conditioned the housing units in our facilities that would  
23 include Dr. Lannette Linthicum, our Health Services division  
24 director; Bill Stephens, Correctional Institutions director;  
25 and those that served in that role prior to him in my tenure;

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1 neither has a facilities division director. I would rely  
2 certain on their judgment and expertise to -- to put forward a  
3 recommendation such as that.

4 I think also to the extent that -- to the extent  
5 that a consideration was ever made on the part of the dialogue  
6 and discussion and consideration would have to include what  
7 funding or what expenditures you would have to forego to move  
8 -- to move down that path, which also, again, as I said a few  
9 minutes ago, we don't have extra money laying around; and we  
10 typically are required and have reduced medical shortfalls in  
11 -- in our agency's budget as a matter -- as a matter of course.  
12 So I think there would be a lot of things that would have to be  
13 considered, but none of my staff have recommended that we do  
14 so.

15 Certainly, if that occurred, we would look at --  
16 we would look at every aspect of the -- of the request. We  
17 would also factor in the overall history of our mitigation  
18 efforts and the steps we have taken in the last few years to  
19 enhance those mitigation efforts and make a judgment.

20 Q. I'm going to ask the question that I asked you one  
21 more time, but I appreciate the -- the response nevertheless.

22 Have you ever considered adding air-conditioning  
23 or retrofitting any aspect of any nonair-conditioned housing  
24 area ever? You, Mr. Livingston?

25 A. No.

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1 the Texas prison system?

2 MS. BURTON: Objection to the argumentative  
3 nature of that question, Your Honor.

4 MR. EDWARDS: This is a deliberative  
5 indifference case. I'd ask for some --

6 THE COURT: I'll allow it.

7 MR. EDWARDS: Abby, would you --

8 A. No, sir.

9 Q. (BY MR. EDWARDS) Have you been informed that 20  
10 people have died with a diagnosis of hypothermia while housing  
11 in Texas Department of Criminal Justice facilities since 1998?

12 A. I don't recall the exact number being 20, but  
13 certainly in 2011, I'm aware of ten. I'm aware of two in 2012,  
14 and I believe two in 2007, if I'm not mistaken; and I know  
15 there may have been in the early years prior to that, I don't  
16 recall the exact number.

17 Q. Okay. I'll represent to you that there was  
18 heatstrokes -- let me -- is that all the heatstroke deaths that  
19 you think there could in the Texas prison system during that  
20 time frame?

21 A. Could you repeat the question?

22 Q. Do you know that hypothermia is a notoriously  
23 underreported cause of death?

24 A. I don't know that.

25 Q. Have you ever asked Dr. Linthicum if that's, in fact,

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1 hottest -- hottest summer on record. 2011 was an  
2 extraordinarily hot summer. It was a record-heat event that we  
3 could not have anticipated, did not anticipate. And during the  
4 course of that summer, ten offenders died. And, in fact, if  
5 I'm not mistaken, roughly within a span of 10 days, seven of  
6 those ten died within that time frame. Again, that was -- that  
7 was a heat event; that was not anticipated. It was not  
8 predicted. It was not one that we would have been in a  
9 position to expect.

10 Our mitigation efforts had worked in the past.  
11 We had every reason to believe that they would work in the  
12 present and moving forward. In an abundance of caution before  
13 we knew specifically that those deaths occurred to heat, we  
14 pulled staff together and made sure that we were all  
15 comfortable that we were taking every step and mitigation  
16 effort and doing everything we needed to take and do during the  
17 course of the summer.

18 And staff reemphasized our mitigation efforts.  
19 They coordinated more closely with Health Service division to  
20 identify offenders that might have and do have specific  
21 conditions that would lead to heat illness and really redouble  
22 the efforts during the midst of a very hot summer. That's the  
23 dialogue and discussion that -- that I specifically had at that  
24 time with my staff.

25 Q. Okay. So you've lived through the summer of 2011,

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1 Q. Do you recall during the summer of 2011 there being a  
2 prolonged heat wave?

3 A. As I pointed out in the previous answer, it was a  
4 record-heat event, a record-heat summer with -- with a  
5 prolonged high temperatures. So both the duration and  
6 intensity of the heat was greater than had been the case in  
7 prior summers or subsequent summers.

8 And, again, as I understand it, that was not  
9 predicted to be an unusually different summer that what had  
10 typically been the case. And as I pointed out, our mitigation  
11 efforts had for the most part worked over the years. We relied  
12 on those, and we had no reason to believe that they wouldn't  
13 work in -- in the summer of 2011.

14 Q. So let me just make sure I understand what you're  
15 saying. You're saying, look, it was a really, really hot  
16 summer. It was record-breaking summer. It could not have been  
17 anticipated and was not predicted that such a summer like this  
18 was coming or could come; and we did the best we could; and we  
19 had no indication based on our prior mitigation measures that  
20 the inmates were at risk even given these record-setting  
21 temperatures; is that correct?

22 A. I'm not sure I would frame it exactly as you have.  
23 Clearly, our objective is to mitigate that risk and to reduce  
24 the risk and take every step and measure we can to mitigate the  
25 impacts of the heat and to pay very close attention to those

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1 steps we need to take.

2 Q. Okay. You threw a lot at me right there, but I want  
3 to be certain I understand what you're saying. Are you saying  
4 that the agency could not have predicted a summer as hot as  
5 2011 and the consequences that flowed from that?

6 A. I think based upon past history and looking at the  
7 system as a whole, there was no way for us to know that the  
8 summer would produce the results that it did, and specifically,  
9 the duration of -- and the temperatures during the course of  
10 that summer, specifically in July and August. They were in  
11 excess of what is typical.

12 THE COURT: Let me interrupt. I think the  
13 question is more: Do you have a plan in place for response in  
14 the event that there was a hot summer? Not necessarily 2011.  
15 Not necessarily any one year, but did you have a plan in place  
16 for a summer, the temperatures in which were well above  
17 average.

18 THE WITNESS: Your Honor, again, our protocols  
19 that we had to that point utilized for many years were -- had a  
20 track record of -- of being effective system-wide. That's not  
21 to suggest that -- that you never have a bad result. Any death  
22 is one too many.

23 But, systematically, the protocols and the  
24 safety precautions and the procedures that we had in place  
25 worked. And as we moved into 2011, we put all those same

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1 protocols in place. And during the course of the summer as,  
2 again, when it -- in late July/early August, when we had had  
3 some deaths that were apparent -- apparently heat related,  
4 staff pulled together and identified things that we could do to  
5 enhance in the short run -- very short run.

6 Again, as I pointed out, in the span of ten  
7 days, seven of those ten offenders passed away. And during  
8 that short time frame, staff worked extraordinarily hard to  
9 make sure that we were doing everything that we could and  
10 should do as an agency during a hot summer.

11 Q. (BY MR. EDWARDS) So, no, you didn't have a plan in  
12 case the temperature went up higher than normal?

13 A. I'm not sure I understand the question.

14 Q. Did you have a different plan when the temperature  
15 went up higher than normal?

16 A. We -- I wouldn't say that the -- that there was a  
17 separate or different plan, but we have always emphasized to  
18 our unit administrators, our wardens, medical staff to use  
19 their judgment as -- as needed when circumstances and  
20 environment changes. And so, my expectation is that staff out  
21 there worked extremely hard, used every -- sought to use their  
22 judgment in a way that would mitigate the heat. And,  
23 certainly, the baseline or the foundation of that is the series  
24 of steps and protocols that we had in place and subsequent to  
25 that we've built on those, but those are still foundational.

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1 A. Well, we built upon the heat precaution email, and we  
2 built upon the policies that we have. We didn't scrap them.  
3 We enhanced them.

4 Q. How did you enhance them after the summer -- you  
5 didn't enhance them until after the summer of the 2011,  
6 correct?

7 A. Again, we took some mitigation measures during the  
8 course of -- some additional mitigation steps during the course  
9 of 2011 and then we took more steps during 2012 and we've  
10 continue build on that.

11 Q. Okay.

12 A. As I understand it, we have put together a list that  
13 you should have that -- that outlines those steps that we've  
14 taken.

15 Q. Tell me what you did differently after all those  
16 deaths in 2011, if you know.

17 A. Well, I -- I don't know them all by memory.

18 Q. Tell me anything that you do know.

19 A. But I've got a list, and you have this list as well.

20 Q. Sir, just so we're clear, I'm not asking you to read  
21 a list. I want to know what you did differently, what you,  
22 Brad Livingston, did differently, or what you know the agency  
23 did differently after those deaths. Could you please tell me?

24 A. Yes. In April of 2012, prior to the summer of 2012,  
25 our regional directors were specifically directed to discuss

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1 A. "Heat Precaution 2011 Reminder."

2 Q. And is that an email that is sent out system-wide?

3 A. I believe it's -- it's sent out to all of -- in fact,  
4 I know it's sent out to all of our correctional facilities.  
5 Whether everybody in the agency gets it, I don't know; but I  
6 know everybody in our Correctional Institutions and our  
7 facilities and everybody get it.

8 Q. Got you.

9 A. Everybody that needs to get it from that standpoint.

10 Q. And if you wanted to add items to this reminder, you  
11 certainly could, if you wanted to, correct?

12 A. I mean, are you asking collective you or individual  
13 you.

14 Q. Individual you, Brad Livingston. If you wanted to  
15 add something to this heat precaution, you certainly could,  
16 correct?

17 A. I would certainly have a discussion with staff if I  
18 felt it necessary to add an item, but, again I rely on their  
19 judgment, their years of expertise, and their hard work, their  
20 collective groups judgment, again, our group of senior staff  
21 pull together, identify what needs to be included in this, and  
22 I trust their judgment; but to answer their judgment, I feel I  
23 could add an item if I sought to.

24 Q. Sure.

25 My understanding is that this type of email has

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1 been sent out in the same or similar format beginning in the,  
2 like, the late 1990s; is that your understanding as well?

3 A. That's my understanding.

4 Q. You didn't change that process when you became head  
5 of the agency in 2004; is that right?

6 A. That's correct.

7 Q. From 2004 until this -- this 2011 heat precaution  
8 email before you, do you know of any changes to the email --

9 A. I'll --

10 Q. And I'll represent to you that I think there were  
11 very few, if any, changes.

12 A. I don't recall.

13 Q. But I want to ask you --

14 A. I don't recall. I couldn't answer this question.

15 Q. So as you testify here today, you have no idea if  
16 there were any changes?

17 A. I do not know.

18 Q. Okay. Well, again, feel free to take a look at it.  
19 But one thing that I'd like to know is whether any of the steps  
20 that are on this heat precaution email have anything to do with  
21 reducing the temperatures inside the housing areas?

22 A. Give me a just a moment to read it.

23 Q. Sure.

24 A. Okay. There are several references to air flow and  
25 fans in our list of precautions and our instructions to staff.

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1 95 degrees?

2 A. I have not posed specific question as you've  
3 articulated it. I've had ongoing discussions with all those  
4 experts within the agency as to what they believe the best  
5 course of action is for operating our system during the summer  
6 months, and they pull together in -- in -- frankly, they meet  
7 year round.

8 The key players in this agency have multiple  
9 occasions to meet on a variety of topics, but they meet very  
10 specifically on this topic in the spring.

11 And it's my judgment, as the executive director,  
12 not to second guess their more specific and targeted skill sets  
13 and expertise on these areas than mine. That's why I've hired  
14 them. That's why I put them this place. That's why I rely on  
15 them. And to me it would be shortsighted and potentially  
16 problematic to, without more specific expertise myself, go in  
17 and strike out items or add items.

18 I rely on their judgment. And I would say,  
19 again, come back to is that the protocols this agency has had  
20 in place for many, many years, although we have built upon  
21 them, have worked systematically before 2011. We had every  
22 reason to expect that they would work during 2011 and could not  
23 have anticipated and did not anticipate a heat event with  
24 record temperatures, both in terms of duration and intensity  
25 during the 2011.

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1 offenders and move them to another facility while you were in  
2 process of that renovation and retrofit.

3           So there are -- there are considerable  
4 operational and logistical challenges to deal, separate and  
5 apart from the funding consideration; but I also believe that  
6 given the likely high price tag of doing those retrofits, it's  
7 clearly not just simply in my purview to decide to do that or  
8 not do it.

9           Q.    Okay. Well, whether it is or isn't -- whether you  
10 decide to or not, sir, you're making an intentional choice not  
11 to seek or try to get these facilities retrofitted with  
12 cooling, right?

13           A.    As I pointed out earlier, the resource allocation is  
14 an extremely important and ongoing balancing act of current  
15 operational necessities, priorities, and risk assessment  
16 evaluation. The unfortunate series of deaths in 2011 were  
17 certainly -- and our agency position is that we did everything  
18 we could to learn how to improve even beyond the -- the effects  
19 of that record breaking heat, okay.

20                   Our protocols and practices had worked up to  
21 that point. We made changes and continue to make changes to  
22 those protocols and we haven't seen that kind of heat event  
23 where those adverse results and those numbers since that time.

24                   And so, part of what we have to balance is  
25 whether it makes sense to spend what would be extraordinary

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1 sums at the expense of other operating necessities like just  
2 any range of our functions as we move forward.

3 I think, also, it would be gratuitous, I think,  
4 for someone in my position to make a request to the legislative  
5 that is not credible from the standpoint of overall costs and  
6 the ongoing necessity of it. I don't think anyone would argue  
7 that air-conditioning is beneficial. I think the issue is, is  
8 it absolutely necessary to keep them safe and -- and secure.

9 Our mitigation efforts are and have been  
10 designed to mitigate the impact of heat. 2011 was a very  
11 unusual year, and one death is one too many. We had ten  
12 heat-related deaths in 2011. We had two more in 2012. We  
13 continued to learn and -- and identify ways to improve our  
14 protocols. We've not had a reoccurrence in 2013, '14 or '15.  
15 I'm not sure I could justify making a request for  
16 air-conditioning in our units.

17 Q. Okay. I'm going to try one more time. Sir, whether  
18 you think it's the right thing to do, whether I think it's the  
19 right thing to do, whether your defense lawyer's think it's the  
20 right thing to do or the wrong thing to do is irrelevant. I  
21 need you to acknowledge that you're making an intentional  
22 choice not to seek to retrofit or install air-conditioning in  
23 any of the housing areas, and that you're doing it  
24 intentionally, sir. Isn't that the case?

25 MS. BURTON: Objection. Your Honor, it's

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1 argumentative.

2 THE COURT: No. I think it goes to the question  
3 at the very least.

4 MR. EDWARDS: Your Honor, can I get a "yes" or  
5 "no" to the question?

6 THE COURT: Well, I never -- I never insist that  
7 a witness answer yes or no. So I think the question's a fair  
8 one, and all he's asking is it's not a product -- the decision  
9 of inadvertence. It's not a matter of a decision that is made  
10 simply because no decision is made. Surely, it is a decision  
11 made by someone, and I would think that the someone would  
12 include you as to whether or not air-conditioning should be  
13 installed.

14 Q. (BY MR. EDWARDS) And that that decision is an  
15 intentional?

16 THE COURT: I tried to capture that in my  
17 question. It's not a decision made by inertia. It's a  
18 decision made intentionally that air-conditioning would not be  
19 installed.

20 THE WITNESS: Your Honor, with the caveats that  
21 you provided and also a reminder that no one has ever  
22 recommended to me that -- that our units be air conditioned,  
23 the answer's yes.

24 THE COURT: Okay. Let's move on.

25 MR. EDWARDS: Okay.

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1 Q. (BY MR. EDWARDS) You acknowledge that  
2 air-conditioning would be beneficial for all the prisoners?

3 A. I acknowledge that generally air-conditioning would  
4 be beneficial.

5 Q. Do you acknowledge that it would be much, much, much,  
6 much more beneficial for the inmates or prisoners that are  
7 particularly susceptible to heat illness?

8 A. Again, I think I answered that question. I don't  
9 know that it's necessary. I can't gauge what you mean by three  
10 muches.

11 Q. Fair enough. Let me reask it.  
12 Would you agree that air-conditioning would be  
13 exceptionally beneficial if you were in a population of people  
14 that TDCJ considers to be particularly vulnerable to extreme  
15 heat and puts on its heat illness wellness list?

16 A. Again, I think it would be beneficial.

17 Q. Now, I trust you would acknowledge that it would also  
18 be beneficial for your correctional officers who have to work  
19 in these temperatures?

20 A. Sure.

21 Q. Have correctional -- are you aware of any  
22 correctional officers ever complaining of having to work in  
23 theses temperatures inside these housing areas during your  
24 tenure from '04 to presently?

25 A. I have not had a correctional officer complain to me.

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1 I have heard that there's one individual who has complained.

2 There may be one, but I'm not aware of one.

3 Q. You're aware of one officer that has complained to  
4 work --

5 A. In this context, they would not typically complain to  
6 me. So as I said, my -- my recollection is I'm aware of one  
7 who has made that known in the newspaper. That's the only  
8 reason I know about it.

9 Q. Okay. Is that Mr. Lawry who has written editorials  
10 about the dangers and the problems with not air-conditioning  
11 the housing areas for correctional officers?

12 A. That's correct.

13 Q. And did you ever have a conversation with Mr. Lawry  
14 about his complaints?

15 A. No.

16 Q. Did you ever instruct any of your staff to  
17 communicate with Mr. Lawry with his complaints?

18 A. I did contemporaneously, but I did, yes.

19 Q. Did they relay it back to you?

20 A. They have indicated to me generally the nature of  
21 their discussion, yes.

22 Q. Are you aware of workers' compensation claims or  
23 employee-heat-related illnesses throughout the summer?

24 A. Can you be more specific? I'm not sure I understand  
25 the question.

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Brad Livingston - 10/1/2015

1 Q. Sure.

2 You know your employees are injured due to  
3 heat-related illnesses during the summer, right?

4 A. I know we track any and all workers' compensation  
5 claims to include illness or injuries related to heat, and that  
6 there would be -- there would be a number.

7 Q. And we spoke about the uptake during the summer. Did  
8 you -- have you ever reached out to any of the individual  
9 employees injured by the heat or hot weather to find out what  
10 their perspective was?

11 A. No, I haven't.

12 Q. Did you ever instruct Mr. Thaler or Mr. Stephens,  
13 hey, I noticed there were 30 heat-related injuries in July.  
14 Why don't we talk to these people to find out what's going on  
15 with them?

16 A. I'm not aware of 30 heat-related-employees injuries  
17 in July.

18 Q. How ever many they were, sir.

19 A. Well, I didn't think --

20 Q. Let's go talk to them and find out what's going on?

21 A. I think the number is relevant because my  
22 understanding of the number is relative to 38,000 employees, 32  
23 of whom work on our units. It's a very, very small number. So  
24 from that standpoint, I understand you were using a  
25 hypothetical example, but I think it's -- it's relevant.

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Brad Livingston - 10/1/2015

1 THE COURT: I'm going to overrule the objection  
2 and allow the question.

3 Q. (BY MR. EDWARDS) And I'll just ask -- I understand  
4 that you're not an expert in workers' compensation and perhaps  
5 not an expert in other industries, but shouldn't you be  
6 inquiring about this as the head of the agency or making sure  
7 your directors are?

8 A. This is a report that is utilized by our unit-based  
9 staff, by our Correctional Institutions division staff and by  
10 our Administrative Review and Risk Management staff, among  
11 others. Those divisions review these numbers. They review the  
12 documents that this agency produces. And as a follow up to a  
13 point I made earlier, as the executive director, I officially  
14 have access to what I personally utilize or review every one of  
15 these reports.

16 My expectation is that the agency have at the  
17 appropriate level of leadership and management staff who review  
18 these numbers. And to the extent that that there was a trend  
19 that was problematic and outside of the norm that they would  
20 call it to my attention. No one has called this to my  
21 attention.

22 Q. Okay.

23 A. I think another relevant, although you didn't think  
24 so, was the number of injuries in total. I think another  
25 factor that's relevant is the fact that we have 38,000

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,**  
*Plaintiffs,*

**v.**

**BRAD LIVINGSTON, *et al.*,**  
*Defendants.*

§  
§  
§  
§  
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§

**CIVIL NO. 4:14-CV-3253**

**Exhibit 62**

Brad Livingston - 10/2/2015

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

STEPHEN McCOLLUM and SANDRA  
McCOLLUM, individually, and  
STEPHANIE KINGREY,  
individually and independent  
administrator of the Estate  
of LARRY GENE McCOLLUM

VS.

BRAD LIVINGSTON, JEFF  
PRINGLE, RICHARD CLARK,  
KAREN TATE, SANDREA SANDERS,  
ROBERT FASON, the UNIVERSITY  
OF TEXAS MEDICAL BRANCH and  
the TEXAS DEPARTMENT OF  
CRIMINAL JUSTICE

CIVIL ACTION NO.  
4:14-cv-3253  
JURY DEMAND

\*\*\*\*\*

ORAL AND VIDEOTAPED DEPOSITION OF

BRAD LIVINGSTON

October 2, 2015

Volume 2

\*\*\*\*\*

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**APPENDIX 1642**

Brad Livingston - 10/2/2015

1 A. Yes.

2 Q. Do you understand as -- I'm asking as Brad  
3 Livingston, personally, that this has been part of your policy  
4 for years?

5 A. I couldn't tell you when it was added to this policy.

6 Q. Do you know how long you've had a heat stress policy,  
7 sir?

8 A. I -- I couldn't tell you exactly how long a policy  
9 with respect to heat stress has been in place.

10 Q. Okay. Well, do you agree that you should be aware of  
11 all of these comorbidities that affect heat tolerance if  
12 they're in your policies or correctional managed heat policies?

13 MS. BURTON: Objection.

14 A. Can you clarify what you mean by "you" in this case?  
15 "You" agency or "you" Brad Livingston?

16 Q. (BY MR. EDWARDS) I mean you, Brad Livingston.

17 A. I don't think it's operationally imperative that I  
18 know every detail or even the list of morbidities on heatstroke  
19 in Attachment B. I have, again, as the executive director of  
20 TDCJ, I have official access to every policy and document that  
21 we produce. I do not as an individual have -- as a matter of  
22 course, read and review and memorize and know exactly what's in  
23 every document and report that we produce.

24 As -- as you know, TDCJ has 38,000 employees.  
25 We have 500,000 offenders in our care in one portion of the

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Brad Livingston - 10/2/2015

1 A. Karen Hall is an employee within the Texas Department  
2 of Criminal Justice. I don't know her exact title. She  
3 oversees a number of functions to include many of our  
4 statistical reports.

5 Q. Do you know who Sylvester Turner is?

6 A. Yes, sir, I do.

7 Q. Who is he?

8 A. He is a representative -- Sylvester Turner is a  
9 current member of the Texas House of Representatives  
10 representing the district in Houston.

11 Q. Do you recall his office asking you about heat deaths  
12 back in 2009?

13 A. I do, and it would certainly refresh my memory  
14 preparing for this -- for this deposition, but I -- keep in  
15 mind, over the years, I have had many discussions with  
16 Representative Turner and his office on any number of topics.

17 Q. Sure.

18 A. So I -- again, didn't recall specifically that --  
19 that particular inquiry prior to preparing for this deposition,  
20 but it would not at all be inconsistent for his office to ask  
21 any number of questions.

22 Q. Well, I'm not concerned about the "any number of  
23 questions," but I am very concerned about the questions  
24 directly related to heat deaths in the Texas prison system. So  
25 that's what I want to focus on.

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Brad Livingston - 10/2/2015

1 died inside of hypothermia in 2009, 2010, or 2011?

2 A. I don't recall what changed between those three  
3 years.

4 Q. Well, did you change anything about your policies  
5 between 2007 and 2011?

6 A. I can't recall specifically what changes may or may  
7 not have occurred on those policies and practices during that  
8 time frame.

9 Q. Okay. Well, you were made aware that two -- every  
10 death is serious, right? That's what you told me?

11 A. Yes, sir.

12 Q. Okay. And Lannette Linthicum alerted you to a  
13 problem that these people died because it was really hot inside  
14 the prison system, right?

15 A. I'm not sure this memo directly states that. Let me  
16 read it again.

17 Q. Or to that effect? I'm not asking you for a verbatim  
18 recitation, but as the chief policy maker for the agency, isn't  
19 that what this memo is telling you and the point of the memo?

20 A. I would not immediately conclude that that was the  
21 point of memo.

22 Q. All right. Well, what did you conclude was the point  
23 of memo, sir?

24 A. She was -- again, I don't recall the exact specifics  
25 as to why this was memo was generated, whether I asked for it

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1 or whether she provided it, but I do recall -- again, what I  
2 often do and what I did in this instance, anytime we've talked  
3 about heat-related illness within our system is to ask a series  
4 of questions to include: Are we doing everything we can and  
5 should do to manage our offender population with respect to  
6 heat in the summer months? Are there other things that we  
7 ought to be doing that we're not doing? And I don't recall  
8 specifically if I asked her this, but it's very common for me  
9 during any and every meeting that I have, is to seek -- ask  
10 them for their recommendation.

11 Q. I would hope that's what you do, but is it really  
12 your testimony that the agency in 2008, 2009, 2010, and 2011  
13 was doing everything it can and should do with regards to  
14 protecting inmates from the dangers of extreme heat?

15 A. What I'm -- what I'm suggesting and what I'm  
16 testifying to is that our heat protocols that the agency have  
17 in place have a long track record of effectively managing the  
18 offender population with respect to heat illness.  
19 Unfortunately, certainly in 2011, we had an unprecedented heat  
20 event, and we had ten offenders die of heat-related illness,  
21 and the deaths that we're referencing here occurred prior to  
22 that time. We have, and will continue to always seek to  
23 improve our practices within the agency. I will say that  
24 despite our best efforts and best intentions, that it's -- it's  
25 possible, and in this case it occurred that bad results happen.

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1 Correctional Association.

2 Q. Who is the president of American Correctional  
3 Association currently?

4 A. I believe it's Mary Livers.

5 Q. Okay. Has Dr. Linthicum ever been president of the  
6 American Correctional Association?

7 A. I believe Dr. Linthicum is the president elect of the  
8 American Correctional Association.

9 Q. Are ASA standards important for the Texas Department  
10 of Criminal Justice to follow?

11 A. We have as an agency in our -- been engaged in the  
12 ASA accreditation process for a number of years. So, yes we,  
13 believe that it's an important additional outside review  
14 process that's -- that augments our operations and our internal  
15 oversight.

16 Q. So are the standards adopted by the ACA important for  
17 the department to follow?

18 A. Again, I think the overall accreditation process and  
19 the standards in their entirety is -- is a very useful and  
20 effective process for us to engage in.

21 Q. Why is that?

22 A. Again, because those standards are promulgated within  
23 the context of multiple disciplinary teams and a very rigorous  
24 process as it relates to best practices within corrections, and  
25 it represents -- it represents an outside mechanism that

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Brad Livingston - 10/2/2015

1 agencies, including ours, can and do utilize to gauge their  
2 operations from those standardized lists of correctional  
3 standards.

4 Q. Do you know if the State of Arkansas follows ACA  
5 standards with regards to temperature control? Inside its  
6 housing units?

7 A. I do not.

8 Q. Do you know if the State of Arkansas prisons are  
9 air-conditioned?

10 A. I don't -- I don't know.

11 THE COURT: Do you know with respect to any  
12 state besides Texas what facilities are, by category,  
13 air-conditioned, like Florida or Arizona, or other hot states?

14 THE WITNESS: Your Honor, I can answer in this  
15 way: I wouldn't know the totality of any of the given prison  
16 systems across the country. It's my understanding, generally,  
17 that the vast majority of prison systems in this country do not  
18 have all of their facilities air conditioned.

19 Q. (BY MR. EDWARDS) Where does that understanding come  
20 from, sir?

21 A. It comes from, primarily, interaction over the years  
22 with my peers who are the head of their systems over the years  
23 and, again, having dialogue and discussion about a variety of  
24 operational issues over the years.

25 THE COURT: Do you know whether there is

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1 Q. Why not?

2 A. Neither -- none of the three of us have a direct  
3 involvement in the procurement of our agricultural equipment or  
4 items. So there wouldn't have been a context or a reason for  
5 us to discuss that.

6 Q. Were you aware that the agency had purchased,  
7 essentially, some sort of cooling system for pigs at the cost  
8 of, you know, \$700,000 or something like that?

9 A. After the procurement was made, I became aware that  
10 our agricultural function purchased modular buildings that are  
11 consistent with agricultural standards for raising swine, and  
12 that came to my attention after the purchase. Our agricultural  
13 function is an extremely large function operated and managed by  
14 an individual who has a responsibility for a -- even though --  
15 even though agricultural function is fairly small part of the  
16 overall TDCJ mission, it represents the largest  
17 agricultural enterprise, probably in the nation, with 15,000 --  
18 over 15,000 head of cattle, over 140,000 hogs, several hundred  
19 thousand chickens, 1500 horses. It's a very large enterprise.  
20 I'm not -- I'm not involved in the acquisition of equipment  
21 within that function, unless of course it would have exceeded  
22 the million dollar threshold that requires approval by our  
23 board, and certainly Mr. Stephens, nor Mr. Thaler, are in that  
24 part of our agency operations.

25 Q. Who was the individual who made this purchase?

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1 A. I've been told that it may lower the temperature, but  
2 I don't know that it does.

3 Q. Well, isn't that something you should learn about,  
4 sir?

5 A. Again, TDCJ is a \$3.4 billion enterprise that has a  
6 vast number of activities and departments and the functions  
7 within it. Our agricultural function is a relatively small  
8 function within the overall TDCJ enterprise. We -- it's a  
9 small part of TDCJ's overall function, but as agricultural  
10 enterprise, it's large. But I don't, frankly, believe that as  
11 executive director of TDCJ, I need to familiarize with the  
12 details of equipment purchases necessary to run our -- our  
13 agricultural operations.

14 Q. I thought you told me earlier that these budgetary  
15 decisions reflect priorities and tradeoffs that the agency has  
16 to make; isn't that correct?

17 A. I think in a global sense, that's absolutely correct.

18 Q. Now, don't hold me to this, but my understanding is  
19 it's roughly \$700,000. So it's something between 600,000 and  
20 \$800,000 to purchase these swine barns to provide lower  
21 temperatures for the pigs. Is that your understanding as well?

22 A. My understanding is that your dollar amount is  
23 correct. I would characterize it differently. I would suggest  
24 that the purchase was made to -- as the most cost effective way  
25 to replace buildings that were rendered unusable, and that was

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1 Q. Do you know if any of those injuries are you describe  
2 as serious injuries requiring hospitalization?

3 A. I would have to look at the details on the entirety  
4 of that list.

5 Q. Well, you made a statement that effectively said,  
6 "Look, there haven't been any documented deaths -- heatstroke  
7 deaths as far as you're aware," and I'd like to know if you've  
8 had the occasion to asked about people who just suffered  
9 illnesses or near-death experiences with your medical staff.  
10 Have you ever had that conversation, sir?

11 A. I've made my expectation clear that -- to the extent  
12 that we have a heat-related death to be aware when we  
13 collectively as an agency are made aware that it is a  
14 heat-related death. So I feel certain that if we have a case  
15 that is within those parameters and life threatening, that one  
16 or both of my chief staff on this topic, Dr. Linthicum or Bill  
17 Stephens, would inform me of such. I don't recall being  
18 informed during the years that you're referencing.

19 Q. Okay. Sir, I'm going to provide you a letter that  
20 you wrote back to -- well, it's a letter to Mr. Turner and ask  
21 you a couple of questions about it. Okay?

22 A. Sure.

23 (Exhibit 14 marked.)

24 (Exhibit 15 marked.)

25 Q. (BY MR. EDWARDS) Take a moment to look at that, sir.

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1 lengthy discussions about during the course of this deposition.  
2 My expectation is that my staff inform me of heat-related  
3 deaths, and I have every reason to believe that they do so.

4 Q. Now, I appreciate that, sir. What I'm suggesting to  
5 you is: Don't you think that it might be a better approach to  
6 get notifications of, not just deaths, but all heat-related  
7 illnesses, particularly heatstrokes, since you know they can  
8 lead to death?

9 A. As I pointed out, my staff have made a practice of  
10 informing me of heatstrokes, even if they fall short of death,  
11 in the recent past summers. That -- in addition to that, and I  
12 know you have this document, in addition to that are unit-based  
13 staff and the corrections institution leaders and staff pay  
14 very close attention to all illnesses, all offender injuries  
15 and employee injuries, and the staff who are operationally  
16 involved in those -- in the operation of our units, are very  
17 much in tune with and aware of both the analysis and review of  
18 those documents and those injuries and illnesses. As I pointed  
19 out, my staff does inform me of heatstroke.

20 Q. Okay.

21 A. In addition to heatstroke deaths.

22 Q. All right. And is that staff Dr. Linthicum? Is that  
23 the staff that's informing you about heatstrokes?

24 A. In combination with the correctional institution  
25 division director. One or both of them would do so.

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1 we took additional steps, and we will continue to take  
2 additional steps if we believe that they are operationally  
3 effective and can improve our mitigation efforts.

4 Q. In the summer of -- prior to summer of 2011, did you  
5 reduce the medical staff at TDCJ facilities?

6 A. Could you repeat that question, please.

7 Q. Prior to the summer of 2011, did you reduce the  
8 number of people and hours at facility clinics system-wide,  
9 sir?

10 A. Describe what you mean by "you." Is this the  
11 collective you or the Brad Livingston you?

12 Q. I assume Mr. Livingston that you didn't personally  
13 reduce a work force, but your agency did?

14 A. Can you repeat that.

15 Q. So I'm asking: Did your agency reduce the number of  
16 medical providers it had and the hours at the facilities prior  
17 to the summer of 2011?

18 A. In response to a legislative directive, yes.

19 Q. Okay. The legislative directive you're talking about  
20 is to lower your budget, right?

21 A. The legislative directive to all state entities to  
22 include UTMB and Texas Tech and TDCJ, was to make specific  
23 budget reductions during fiscal years 2011 and '12 and '13.

24 Q. You had to reduce your budget by a certain  
25 percentage, correct?

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1 A. As I recall that time frame, there were specific --  
2 let me back up.

3 During that time frame, agencies were generally  
4 directed on a percentage basis, but more specifically, agencies  
5 provided information about the items of reduction to include  
6 fiscal years '11, '12, and '13 for legislative discussion and  
7 dialogue during the course of that section, which included  
8 specific items of discussion.

9 If I'm not mistaken, some of the reductions were  
10 required in advance of the 2011 session. I don't recall the  
11 exact time frames, but it would have been before -- some of the  
12 reductions before calendar year 2011 began.

13 Q. Do you recall the percentage reduction that you were  
14 instructed to reduce your agency's budget by?

15 A. Off top of my head, no.

16 Q. Does five percent ring a bell?

17 A. Not specifically at that time. And the reason why,  
18 my memory is not probably not as good as it ought to be is  
19 because there were a variety of different steps to that budget  
20 reduction that state leaders were faced with. So there were  
21 parameters around budget reductions for fiscal year 2011 and  
22 somewhat different parameters around budget reductions in  
23 fiscal years 2012 and '13. So I'm not sure of the exact  
24 parameters --

25 Q. Okay.

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1 A. -- or the percentage that was --

2 Q. Okay --

3 A. -- required.

4 Q. Despite the -- the instruction to reduce your budget,  
5 you'd agree with me that nothing in terms of reducing the  
6 budget would have warranted jeopardizing the health and safety  
7 and medical care that inmates need, right?

8 A. Could you repeat the question.

9 Q. Whatever the rationale for trying to reduce your  
10 budget, you'd agree with me that nothing would warrant placing  
11 the prisoners in your care's medical needs in jeopardy, right?

12 A. I believe certainly within the context of your  
13 question, we have an obligation to deliver the healthcare to  
14 our offender populations that is required.

15 Q. Okay. And one of the -- one of the things you chose  
16 to do was to reduce the clinic hours at certain prisons, right?

17 A. The --

18 Q. And I believe that's a fact, but is that correct?

19 A. That's correct.

20 Q. Okay. And several of those prisons where you reduced  
21 clinic hours and didn't have a trained medical provider, who  
22 could actually diagnosis, included the Hutchins facility; isn't  
23 that correct?

24 A. I believe that's correct.

25 Q. And it also included the Gurney facility; isn't that

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Brad Livingston - 10/2/2015

1 correct?

2 A. I believe that's correct, although I don't have it at  
3 my fingertips the full list clinics that had reduced clinic  
4 hours. I also know, though, that the Health Services Division  
5 working in conjunction with our security teams on our unit and  
6 UTMB and Texas Tech put in place a process whereby a staff on a  
7 given unit, if they were -- if they had a medical emergency at  
8 a time where the clinic was not open, there was specifically  
9 delineated policies and procedures and steps for staff to take  
10 when a medical emergency occurred, and there has been continued  
11 training and emphasis on that.

12 Budget cuts are never easy, and the Health  
13 Service Division and UTMB and Texas Tech made some very  
14 difficult decision as it relates to staffing reductions within  
15 the delivery of healthcare within TDCJ. Those decisions,  
16 again, are never easy, and the decisions they made were, in  
17 some cases, reducing clinic hours and reducing staff on the  
18 units.

19 I recall that after those reductions were put  
20 into place, there have been at least one legislative hearing  
21 that I can recall that Dr. Linthicum and I believe UTMB staff  
22 Dr. Murray, and if my memory serves, I believe someone from  
23 Texas Tech, Dr. Deshields would be the most likely person,  
24 testified specifically about the cuts that were initiated and  
25 operationalized within the healthcare system, and they

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1 responded to a series of questions in the committee about the  
2 ongoing levels of healthcare and access to care in our system.

3 In listening to that testimony and having  
4 discussions the doctor required of us, I recall -- recollection  
5 both the discussions with her and UTMB and Texas Tech staff, is  
6 that we were and are in compliance with those requirements.

7 Q. Owen Murray told you that staffing requirements were  
8 in compliance with what exactly?

9 MR. ALVAREZ: Objection.

10 A. That misstates what I said.

11 Q. (BY MR. EDWARDS) Who told you that you were in  
12 compliance, and what did they tell you, you were in compliance  
13 with?

14 A. What I'm saying is that my recollection, testified in  
15 a legislative hearing about their expert opinion about the  
16 adequacy of the access to care in response to those budget  
17 cuts.

18 Q. So your understanding is that Owen Murray, Lannette  
19 Linthicum, and Denise Deshields testified the budget cuts --  
20 that the system would still be adequate even with the budget  
21 cuts? That's your understanding?

22 A. I'm sure that wasn't their exact wording, but neither  
23 of us would know that today, but I think the key point is that  
24 the access to care that is required of us is and was still  
25 being met.

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,**  
*Plaintiffs,*

**v.**

**BRAD LIVINGSTON, *et al.*,**  
*Defendants.*

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**CIVIL NO. 4:14-CV-3253**

**Exhibit 63**



Stephen McCollum, et al v.  
Brad Livingston, et al.

Jeffery Pringle  
February 15, 2013

1 Q And would that give me a general idea of the  
2 time that they were there within, say, an hour?

3 A It should provide the general time.

4 Q Okay. And I assume -- well, sorry.

5 The correctional officers who were  
6 responsible for the C7 dorm, they would also know if  
7 inside it was extremely hot. Is that fair?

8 A Yes, it is.

9 Q Okay. All right. You -- we're on to sergeant.  
10 Oh, you mentioned a bunch of other things. I got to ask  
11 you, sorry.

12 "Field questions from security staff,"  
13 what do you mean by that?

14 A So while they're on the building, if they have  
15 deficiencies, doors, lights, questions about dorm  
16 operations, then they would ask their sergeant that.

17 Q Okay. So like if a light's not working, they  
18 would say, Hey, sarge, let's get this fixed?

19 A That would be correct.

20 Q Okay. Whose responsibility -- well, okay.

21 Make sure unit activities are operating,  
22 what do you mean by that?

23 A The unit follows a building schedule which is  
24 based on the 24 hours. And during that 24 hours,  
25 there's specific duties that -- or operations that

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1 occur.

2 Q Would you walk me through some of those,  
3 please?

4 A For instance, at 3:30 a.m. would be a mealtime,  
5 so we begin feeding the meal. And also about 3:45, we  
6 begin on the opposite end of the unit to do a laundry  
7 exchange within a housing area. Approximately 5:30 a.m.  
8 we have education; offenders attend education  
9 programming. And then they also have a DAP program that  
10 it begins around 6:00 a.m.

11 Q What is that? What is the "DAP program"?

12 A It's a drug and alcohol assessment program.

13 Q Now is -- and I got -- I'm sure there's a good  
14 reason for this. So tell me, why does -- is mealtime  
15 also referred to as "chow" by a lot of the inmates or  
16 the guards or correctional officer?

17 A Yes, it could be referred to as different  
18 names.

19 Q Okay. Why does it start so early? It seems  
20 early from my perspective. And I'm sure there's a great  
21 reason for it, but I'd like to know.

22 A The one reason we'd start early because of the  
23 daily activities, because we have a lot of activities  
24 that begin around 5:30. So we don't just run one  
25 session of education. We run four sessions. And they

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1 different from other facilities.

2 Q Okay. That's -- okay. That -- that's  
3 interesting to me.

4 When you say a transfer type of facility  
5 or a transfer type of prison, tell the jury what -- what  
6 you mean.

7 A Back in 1993, during the legislation there was  
8 a new law, fourth-degree felony. And during that time  
9 frame, there was a need to have more prison beds built.  
10 So they built dormitory-style housing, such that as the  
11 Hutchins Unit, and a group of them were called transfer  
12 facilities and another group was called state jail  
13 facilities.

14 Q Okay. So what's a transfer facility?

15 A Transfer facility would be to take in inmates  
16 directly from counties and temporarily house them for up  
17 to two years before sending them over to an  
18 institutional facility for permanent housing.

19 Q Does that generally mean that inmates at  
20 transfer facilities have been convicted of less serious  
21 crimes than inmates at institutional divisions?

22 A It would be on the person's definition of "less  
23 serious."

24 Q That -- that's fair.

25 Less violent?

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1 A I do not know what the criteria exactly is for  
2 assigning one to a transfer facility. But if an  
3 offender had been convicted of capital murder, they  
4 would not go to one of those facilities.

5 Q Okay. Who would know what the criteria are for  
6 putting an inmate into a transfer facility? Would that  
7 be Mr. Thaler?

8 A That would -- that could be Mr. Thaler's level  
9 or classification.

10 Q Okay. And who is the head of classifications?

11 A My knowledge, I believe it's Joanie White.

12 Q Joanie White. Okay.

13 What is your understanding, if you know,  
14 of what classification does?

15 A I'm only involved with the unit classification  
16 activities. And what they do on the unit facility is,  
17 we take the paperwork that's generated by medical and we  
18 look at the offender's criminal history, and we assign  
19 them -- they assign them to a housing and to a job.

20 Q Sure. Do sex offenders go to transfer  
21 facilities?

22 A Yes, they would.

23 Q They would? Do you know why? And only if you  
24 know, sir.

25 A I would assume it was a lesser offense.

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1 the drug, that it does in -- does, in fact, dehydrate  
2 you, sir, cause you to, I guess, drink more water?

3 A I don't have no way of engaging whether it does  
4 or doesn't.

5 Q Okay. You just know it's a side effect.  
6 Right?

7 A Yes.

8 Q Okay. Is it reasonable for me to assume that  
9 the medical staff that work at the -- well, strike that.

10 About how long have you been taking  
11 medication for hypertension?

12 A I would guess since about the age of 30 or 31,  
13 and that would make about 15 years.

14 Q All right. About how many prisoners are housed  
15 at the Hutchins Unit on any given day?

16 A Any given day is between 1,970 up to 2,200.

17 Q Would that have been about the number in July  
18 of 2011?

19 A I could only speculate that that was it then.

20 Q Within the range that you're talking about now,  
21 is it fair to say somewhere between 1,900 and 2,200 is  
22 about how many people the Hutchins Unit had back in July  
23 of 2011?

24 A That would -- that would be a good assumption  
25 of the average.

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1 Q Okay. Do you know -- I mean, the inmates are  
2 divided into what you call state jail inmates and  
3 transfer inmates?

4 A Correct.

5 Q Okay. Do you have any idea of the breakdown?

6 A I have an average of the breakdown, but not any  
7 exact numbers.

8 Q Would you give me the average, to the best of  
9 your recollection? And if you're off by some percentage  
10 points that's okay.

11 A The state jail is about 1,200, and the ID  
12 offenders is around 800.

13 Q What was the expression you used, "ID  
14 offenders"?

15 A ID.

16 Q ID, institutional division.

17 A Institutional division.

18 Q Gotcha. Okay.

19 Now we touched on this earlier, but what  
20 is the purpose of a transfer facility?

21 A The transfer facility would take offenders in  
22 directly from county jails and complete a basic  
23 processing into the agency and temporarily house them  
24 for up to two years before they're sent to a permanent  
25 unit of assignment.

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1 areas would be reviewed and required to take certain  
2 breaks at certain temperature times. And offenders  
3 were -- in the housing area, if they made staff aware of  
4 their struggling with the heat conditions, then the  
5 staff were made aware that they could go to a cooler  
6 area. It could either be in that dorm housing area  
7 within the multipurpose room or to another area where  
8 they could be secured.

9 Q And are you sure that those accommodations were  
10 in place prior to Mr. McCollum's death?

11 A Yes.

12 Q Do you recall writing a memo contrary to that  
13 at any point in your career?

14 A A memo contrary to what?

15 Q That would indicate that that wasn't accurate?

16 A No.

17 Q Okay. Let's go through this one by one, sir.

18 This heat awareness training, when did  
19 that occur?

20 A That training occurs during the month of May.

21 Q Why does it occur during the month of May, if  
22 you know?

23 A I guess preparing for the upcoming summer  
24 temperatures.

25 Q Okay. To me that indicates that, you know,

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1 everybody -- well, to me that certainly indicates that  
2 you, as the warden of the Hutchins facility, know that  
3 the hot summer temperatures are something that you need  
4 to deal with in order to make sure that inmates are  
5 safe. Is that fair?

6 A No.

7 Q Okay. What does it indicate to you that you do  
8 heat -- extreme heat awareness training in May of every  
9 year?

10 A It's the training for the whole unit to include  
11 the first-line staff and security staff, to make sure  
12 that they're aware of the extremes and temperatures and  
13 what should be done in case there are issues.

14 Q Is it done to protect inmates?

15 A It's done to protect everybody on the facility.

16 Q Are inmates on a facility?

17 A Yes, they are.

18 Q Okay. So is the training done -- well, do you  
19 do the training solely to make sure that office --  
20 officers are protected or do you also do it to make sure  
21 that inmates are protected?

22 A I don't do the training.

23 Q Do you ensure that it gets done?

24 A The training's done for inmate workers and  
25 staff, yes.

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1 Q Do you know why is it done?

2 A The training?

3 Q Yeah.

4 A Why is it done?

5 Q Yeah.

6 A The training is done because there are factors  
7 that could cause medical issues such as heatstroke or  
8 heat problems.

9 Q Is this the training that you're talking about,  
10 this training circular? Is this the training that  
11 you're talking about, sir?

12 THE WITNESS: (Indicating).

13 MR. GARCIA: Oh, that's the exhibit  
14 number.

15 THE WITNESS: Okay.

16 MR. GARCIA: From the last depo.

17 THE WITNESS: So this is Exhibit 11?

18 MR. GARCIA: I think from the last  
19 deposition.

20 THE WITNESS: Oh.

21 MR. MEDLOCK: Yeah.

22 A Yes, this would be part of the training that is  
23 given.

24 Q (BY MR. EDWARDS) What other -- what else is --  
25 what other training is given other than that document?

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1 A There would be a e-mail from the leadership --  
2 not exactly who would have sent that out -- with  
3 precaution identifiers.

4 Q Would that be read -- well, did you receive  
5 that train- -- did you receive this training?

6 A From what I recall, yes, I did.

7 Q Okay. Would there be a log where you would  
8 have checked in?

9 A Yes, there would be.

10 Q Okay. Do you recall who gave the training in  
11 May of 2011?

12 A One part of the training would have been done  
13 by UTMB, another part of training would have been done  
14 by the admin, CDSO [sic].

15 (Deposition Exhibit No. 33 marked)

16 Q (BY MR. EDWARDS) Sir, let me hand you what's  
17 been marked as Exhibit 33. Is that the e-mail you  
18 received relating to heat precautions?

19 A Yes, it would have been.

20 Q Okay. Did you forward that on to your staff?

21 A Yes, it would have been.

22 Q Who is Katie Anderson?

23 A I do not know.

24 Q Okay. You're positive that you forwarded this  
25 on to your staff?

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1 A To alert us of the present danger, yes.

2 Q Okay. Okay. So I want to go through that list  
3 and if I've written it down incorrectly, please make  
4 sure you tell me. Okay?

5 We talked about the heat awareness  
6 training that y'all received. Right?

7 A Correct.

8 Q Okay. And then I wrote down "heatstroke." And  
9 I believe you -- I believe we may have just talked about  
10 that. But during this training, it was explained to you  
11 that, look, if not treated, this can lead to heatstroke  
12 which can lead to death. Is that correct?

13 A Correct.

14 Q And so accommodations that you made for  
15 individuals were lowering the temperatures of water in  
16 the showers?

17 A Correct.

18 Q Okay. What did you lower them to?

19 A The showers that I took temperature checks on  
20 were, approximately, about 95 degrees.

21 Q What were they before?

22 A Policy requires them to stay around 107.

23 Q Do you know why the number 95 was chosen?

24 A The 95 would have been just chosen because of  
25 the way the shower mixing valve and adjustments are

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1 done, and plus it's below the normal body temperature.

2 Q Okay. How is -- who explained that to you that  
3 that was why the number 95 was chosen?

4 A That was the number that I chose with my staff.

5 Q Oh, you chose that with your staff. Okay. In  
6 consult -- what staff did you make that decision?

7 A Would have been with risk management and  
8 maintenance.

9 Q Who from risk management and who from  
10 maintenance?

11 A Would have been Mr. Storie.

12 Q Okay.

13 A And the maintenance would have been a Mr. Pugh.

14 Q And are there -- would there be a log of  
15 temperature checks to verify that the water was, in  
16 fact, turned down?

17 A No, no logs.

18 Q Who's -- who was checking it?

19 A I personally checked them. And then Mr. Eason  
20 had visit the unit and he personally checked them with  
21 me.

22 Q When did that happen?

23 A I do not recall the exact date.

24 Q Before or after Mr. McCollum's death?

25 A I personally checked them before.

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1 shift.

2 Q Does that mean there wasn't water available on  
3 third shift?

4 A No, that does not mean that.

5 Q Okay. What -- how would one get water on third  
6 shift?

7 A We have eight sinks that provide into a spigot  
8 water fountain system and they could drink from it.

9 Q Okay. What temperature's that water?

10 A I took that temperature. It's 72 to 74  
11 degrees.

12 Q Is that about the temperature of the jugs of  
13 water that you bring in?

14 A I didn't take temperatures of the jug of water,  
15 but I would assume they were probably cooler.

16 Q Why would you assume that?

17 A Because the ones -- when ice was available,  
18 they were filled with ice.

19 Q Okay. Have you ever drank out of the sinks at  
20 the Hutchins Unit?

21 A Yes, I have.

22 Q Okay. Do you do so regularly?

23 A No, I do not.

24 Q Okay. How do you generally hydrate at the  
25 prison?

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1 Q Okay. Do you know why there's not a policy  
2 similar to that for the dorms?

3 A The inmates have several steps that they can  
4 mitigate and they're not at work, so they can determine  
5 their amount of activity that they want to do; movement.  
6 They have access to showers and access unimpeded to  
7 water. And then they could also use the coolers if they  
8 wanted to wet down any clothing items and help mitigate  
9 the heat. They monitor themselves.

10 Q Well, that's a good way to put it. When  
11 they're at work, you monitor them. Right?

12 A They're supervised.

13 Q And when they're in the dorms, I guess it's  
14 TDCJ policy or at least policy at the Hutchins Unit that  
15 they monitor themselves. Is that fair?

16 A Based upon their activities and what they do in  
17 that housing area.

18 Q Sure. Do you see a flaw in -- in the system  
19 that -- that's being implemented in the Hutchins Unit  
20 with regard to policies for work, but no specific policy  
21 for the dorms or the housing area?

22 A That information of the list is most of the  
23 housing area which is the policy.

24 Q There's no written policy for housing. Right?

25 A Not from the leadership or agency other than

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February 15, 2013

1 Q Okay. Now are there more than two? Now  
2 that -- I think you said there are four, in the summer,  
3 fans?

4 A Three on the wall and then one on the floor.

5 Q Okay. And in July there were two on the wall?

6 A Correct.

7 Q Okay. Would you ever be involved in the  
8 decision to transfer a prisoner to a facility that had  
9 air-conditioning?

10 A No, I would not.

11 Q Who would make that decision?

12 A That decision, depending on the reasons, would  
13 depend on the reason of the need.

14 Q Would it -- would it be a medical department  
15 decision always or could it be -- or would it -- could  
16 it be a TDCJ decision or a Hutchins Unit decision?

17 A They would be based on the medical need and  
18 UTMB would make that decision.

19 Q Okay. So if I'm struggling with the heat and I  
20 ask an officer, hey, can you transfer me to a facility  
21 with air-conditioning, the process would be to consult  
22 with UTMB and UTMB would ultimately make that decision?

23 A Because they make medical accommodations.

24 Q Okay. And that would be considered a medical  
25 accommodation, move me -- moving someone to an

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,**  
*Plaintiffs,*

**v.**

**BRAD LIVINGSTON, *et al.*,**  
*Defendants.*

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**CIVIL NO. 4:14-CV-3253**

**Exhibit 64**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

STEPHEN McCOLLUM, §  
STEPHANIE KINGREY, and §  
SANDRA McCOLLUM, §  
individually and as §  
heirs at law to the §  
Estate of LARRY GENE §  
McCOLLUM, §

Plaintiffs, §

VS §

BRAD LIVINGSTON, JEFF §  
PRINGLE, and the TEXAS §  
DEPARTMENT OF CRIMINAL §  
JUSTICE, §

Defendants. §

CIVIL ACTION NO.  
3:12-cv-02037

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ORAL AND VIDEOTAPED DEPOSITION OF

RICHARD J. CLARK

FEBRUARY 7, 2013  
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ORAL AND VIDEOTAPED DEPOSITION OF

RICHARD J. CLARK, produced as a witness at the instance of the PLAINTIFFS, and duly sworn, was taken in the above-styled and numbered cause on the 7th day of February, 2013, from 1:55 p.m. to 3:50 p.m., before TINA TERRELL BURNEY, CSR in and for the State of Texas, reported by machine shorthand, at the Hutchins State Jail, 1500 E. Langdon Road, Dallas, Texas 75241, pursuant to the Federal Rules of Civil Procedure.

Stephen McCollum, et al.  
Brad Livingston, et al.

Richard J. Clark  
February 07, 2013

1 they're feeling all right. If they're sleeping, we do  
2 the same. We just check to make sure that they're  
3 breathing.

4 Q. Okay. Is there anything else that you're  
5 supposed to do as a correctional officer when the --  
6 when you see a name on that list?

7 A. In what way?

8 Q. Well, you've said that when you're doing your  
9 rounds, you -- you check to make sure they're breathing  
10 or ask them a couple of questions when they're on the  
11 extreme heat list. Do you do anything else, or is that  
12 the total extent of what you use the extreme heat list  
13 for?

14 A. Well, we -- we check every -- everyone when we  
15 go in. Our first -- first count usually is a roster  
16 count where we check -- check everyone's ID, their TDC  
17 number and check their face.

18 Q. And you do that when you first come on duty?

19 A. Our first count.

20 Q. And when -- when does the first count happen?

21 A. We had a -- a change of our -- of what -- all  
22 the time the counts and everything are, but usually that  
23 count is -- is within an hour of when we get on the  
24 building.

25 Q. Okay. Now, you spend a lot of time working in

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February 07, 2013

1 make sure we can see their face so we can use the -- use  
2 the picture in the ID card to make sure that the right  
3 person is right.

4 Q. And you do that, you said, within about an  
5 hour of when you start?

6 A. Yes.

7 Q. So if -- that would have happened around 11:30  
8 on July the 21st, 2011?

9 A. Yes.

10 Q. Okay. You said that's the first count. How  
11 many counts do you do?

12 A. I'm not sure at that time since we have  
13 changed the 24 hour when everything is done, but we  
14 usually do like four counts a night.

15 Q. Would you space those evenly, like do them  
16 every two hours on your eight-hour shift?

17 A. The -- the roster count takes -- takes longer  
18 than the other shifts, the other counts we have, so they  
19 would be spaced approximately an hour to an hour and a  
20 half, because at 3:00 o'clock, we have to run chow.

21 Q. You said you also get people up and cleaning  
22 the dorms. Is that the trustees who were -- or the SSIs  
23 who --

24 A. Yes.

25 Q. -- are responsible for that? What time do you

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Richard J. Clark  
February 07, 2013

1 Q. Is it standard practice for when there's an  
2 incident like this, for someone to bring a video camera?

3 A. Yes.

4 Q. Now, your statement says that you got there at  
5 2:10 a.m. That's the correct time?

6 A. 2 -- when -- that's when I was -- that's when  
7 I was doing the count.

8 Q. Okay. So that's how you know it was 2:10 a.m.  
9 when --

10 A. Like I said, it -- it was approximately then.  
11 I don't actually look at my watch to make sure what time  
12 I'm taking the count.

13 Q. Okay. But you do the count at approximately  
14 the same time every day, right?

15 A. Yeah, approximately.

16 Q. So it would have been around 2:10 a.m. when  
17 you were there initially?

18 A. (Nods head.)

19 Q. That's a yes?

20 A. Yes.

21 Q. Okay. And then you say that the -- in your  
22 statement, that the -- whoever it was that told you to  
23 go to this other problem got there in about 10 minutes;  
24 is that right?

25 A. I'm not sure when they got there. They might

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,**  
*Plaintiffs,*

**v.**

**BRAD LIVINGSTON, *et al.*,**  
*Defendants.*

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**CIVIL NO. 4:14-CV-3253**

**Exhibit 65**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

STEPHEN MCCOLLUM, et al.,	)	
	)	
	)	
	)	
	)	
Plaintiffs,	)	Civil Action No.
vs.	)	4:14-CV-3253
	)	
	)	
BRAD LIVINGSTON, et al.,	)	
	)	
	)	
Defendants.	)	
_____	)	

VIDEOTAPED DEPOSITION OF ROGER CLARK

San Diego, California

Monday, April 18, 2016

Reported by:  
Tricia Rosate, RDR, RMR, CRR, CCRR  
CSR No. 10891  
Job No. 123342214

1 SAN DIEGO, CALIFORNIA; MONDAY, APRIL 18, 2016

2 1:31 P.M. - 4:43 P.M.

3 - - - -

4 THE VIDEOGRAPHER: Good afternoon. We are  
5 back on the record.

6 The time is 1:31 p.m.

7 EXAMINATION (Continued)

8 **BY MR. GREER:**

9 **Q Mr. Clark, are you ready to proceed?**

10 **A Yes.**

11 **Q Would you turn to page 7 of your report,**  
12 **please, sir.**

13 **A I have it.**

14 **Q And in the paragraph that's numbered 6 here,**  
15 **it says, "In my opinion, the ACA standards and**  
16 **statements of best practices are among the best**  
17 **expressions necessary in required custodial conduct to**  
18 **be found anywhere."**

19 **Do you agree that the ACA is made up of**  
20 **competent professionals?**

21 **A Yes.**

22 **Q Experts in their field?**

23 **A Yes.**

24 **Q Do you agree that the people who formulate**  
25 **these standards are experts in their field?**

1 A Yes. As I understand your question, yes.

2 Q And you would rely on the standards and  
3 definitions that are in there, and you would agree  
4 with them wholeheartedly?

5 A I agree with them, and I've quoted them in my  
6 report.

7 Q Right.

8 A So I would say yes.

9 Q And you said -- I think I asked you this  
10 before, but you've never been trained as an -- an  
11 auditor? An ACA auditor?

12 A No.

13 Q But do you agree that the ACA auditors that  
14 do go out and do these audits are well trained?

15 A I would expect. I do not -- I've not seen  
16 any of their training, but that's what I would expect.

17 Q And the people who take on the duties of  
18 auditors are also correctional administration experts.

19 A That would be my expectation.

20 Q Okay. Let's go ahead, then, and flip to  
21 page 2, if you could. And I'm looking at the last  
22 paragraph on page 2.

23 It says, "Upon arriving at HSJ,"  
24 Hutchins State Jail, I assume, "Mr. McCollum was given  
25 a brief medical evaluation by the facility nurse..."

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,**  
***Plaintiffs,***

**v.**

**BRAD LIVINGSTON, *et al.*,**  
***Defendants.***

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**CIVIL NO. 4:14-CV-3253**

**Exhibit 66**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

STEPHEN McCOLLUM, §  
STEPHANIE KINGREY, and §  
SANDRA McCOLLUM, §  
individually and as §  
heirs at law to the §  
Estate of LARRY GENE §  
McCOLLUM, §

Plaintiffs, §

VS §

BRAD LIVINGSTON, JEFF §  
PRINGLE, and the TEXAS §  
DEPARTMENT OF CRIMINAL §  
JUSTICE, §

Defendants. §

CIVIL ACTION NO.  
3:12-cv-02037

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ORAL AND VIDEOTAPED DEPOSITION OF

SANDREA YVONNE SANDERS

FEBRUARY 8, 2013  
-----

ORAL AND VIDEOTAPED DEPOSITION OF

SANDREA YVONNE SANDERS, produced as a witness at the instance of the PLAINTIFFS, and duly sworn, was taken in the above-styled and numbered cause on the 8th day of February, 2013, from 10:08 a.m. to 1:35 p.m., before TINA TERRELL BURNEY, CSR in and for the State of Texas, reported by machine shorthand, at the Hutchins State Jail, 1500 E. Langdon Road, Dallas, Texas 75241, pursuant to the Federal Rules of Civil Procedure.

Stephen McCollum, et al.  
Brad Livingston, et al.

Sandrea Yvonne Sanders  
February 08, 2013

1 Q. Okay. When you -- that's kind of an optional  
2 thing. The prisoners can decide --

3 A. Correct.

4 Q. -- when it's chow time if they go or not?

5 A. Yes.

6 Q. Okay. Is that done any differently for  
7 prisoners who don't have access to commissary yet and  
8 wouldn't have any other ability to eat?

9 A. No, that's not done any differently.

10 Q. Okay. Mr. McCollum was a rather large  
11 individual, right?

12 A. Yes.

13 Q. And he was on the top bunk, right?

14 A. Yes.

15 Q. Is it usual for a prisoner of that size to be  
16 on the top bunk?

17 A. It's not unusual.

18 Q. You've seen prisoners that large on the top  
19 bunk before?

20 A. Yes.

21 Q. Okay. You wouldn't think anything of it when  
22 you saw a prisoner that large on the top bunk?

23 A. I might would if I actually witnessed them  
24 struggling to get on the top bunk, you know. Just in  
25 general, no.

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Stephen McCollum, et al.  
Brad Livingston, et al.

Sandrea Yvonne Sanders  
February 08, 2013

1 and we could have discussed it later.

2 Q. Okay. That's not what happened here, though.

3 A. Correct.

4 Q. She waited for you to arrive?

5 A. Correct.

6 Q. And then you talked to the nurse at the Crain  
7 Unit?

8 A. Right.

9 Q. And then you and the nurse at the Crain Unit  
10 made the decision to call 911; is that right?

11 A. Correct.

12 Q. Okay. What information did you feel you  
13 needed from the nurse at the Crain Unit before deciding  
14 to call 911?

15 A. Like I said, it had been a situation where it  
16 was called over the radio that the offender was having a  
17 seizure. We dealt with seizure issues quite often. It  
18 was only when -- I don't know -- like I said, I don't  
19 know what the situation -- what triggered it, but we  
20 would have called Crain anyway. We would have called  
21 the Crain Unit anyway to notify them that this offender  
22 was having a seizure.

23 But what it was, he never was responding  
24 to the things. You know, we give the chest rub. It --  
25 it makes you, even if you're unconscious -- well, not

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

**STEPHEN MCCOLLUM, *et al.*,**  
***Plaintiffs,***

**v.**

**BRAD LIVINGSTON, *et al.*,**  
***Defendants.***

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**CIVIL NO. 4:14-CV-3253**

**Exhibit 67**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

STEPHEN McCOLLUM,	§
STEPHANIE KINGREY, AND	§
SANDRA McCOLLU,	§
INDIVIDUALLY AND AS	§
HEIRS AT LAW TO THE	§
ESTATE OF LARRY GENE	§
McCOLLUM,	§ CIVIL ACTION NO.
Plaintiffs,	§ 3:12-CV-02037
	§
VS.	§
	§
BRAD LIVINGSTON, JEFF	§
PRINGLE, RICHARD CLARK,	§
KAREN TATE, SANDREA	§
SANDERS, ROBERT EASON,	§
THE UNIVERSITY OF TEXAS	§
MEDICAL BRANCH AND THE	§
TEXAS DEPARTMENT OF	§
CRIMINAL JUSTICE,	§
Defendants.	§

\* \* \* \* \*

ORAL AND VIDEOTAPED DEPOSITION OF  
WILLIAM L. STEPHENS  
VOLUME 1

October 18, 2013

\* \* \* \* \*

ORAL AND VIDEOTAPED DEPOSITION OF WILLIAM L. STEPHENS, produced as a witness at the instance of the PLAINTIFFS, and duly sworn, was taken in the above-styled and numbered cause on October 18, 2013, from 4:50 p.m. to 8:05 p.m., before Brenda J. Wright, RPR, CSR in and for the State of Texas, reported by machine shorthand, at the Office of the Attorney General, 300 West 15th Street, Suite 1200, Austin,